Board of Commissioners' Agenda

September 21, 2021

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.

Call To Order

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Discussion / Adjustment / Approval To Follow Agenda

top

Consent Agenda

top

- Budget Amendment for Vaya Health Grant
  - Ordinance
- Budget Amendment for Medication Assisted Treatment (MAT) Grant - FY2022
  - Ordinance

Public Comment

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Good News

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- Proclamation of Hispanic & Latino Month
  - Proclamations

Public Hearings

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- One Buncombe - American Rescue Plan
  - Resolution
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- FY 2023 Annual Section 5311 Administrative and Capital Grant Application
  - Resolutions
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  - More Information

- Emergency Paid Sick Leave
  - Policy
  - More Information

County Manager's Report

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Old Business

top

New Business

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- Consideration of Order Extending Requirements for Face Coverings in Public Spaces
- Ferry Road Property Analysis and Site Planning – Phase 1
  - Report
  - More Information
- Resolution Replacing the Substance Abuse Policy for Mountain Mobility with the Drug and Alcohol Testing Policy for Mountain Mobility, Buncombe County's Community Transportation System
  - Resolution
  - Testing Policy
  - More Information
- Resolution Approving Revisions to the System Safety Plan for Mountain Mobility, Buncombe County's Community Transportation System
  - Resolution
  - Annual Management Review Report
  - Annual System Safety Plan Review Report
  - More Information
- Resolution Amending the Title VI Plan and Authorizing the Chairperson to: Sign the Title VI Plan Review and Approval Document, Execute a Title VI Nondiscrimination Agreement, and Execute Necessary U.S. DOT Title VI Assurances for Mountain Mobility
  - Resolution
  - Management Review Report

  - Plan
  - Review & Approval
  - Agreement
  - More Information

- Budget Amendment for State Lottery Application Project –Buncombe County Schools Repaving
  - Ordinance
  - More Information

- Budget Amendment for Family Justice Center Grants
  - Ordinances
  - More Information

Board Appointments top

- Juvenile Crime Prevention Council
  - Natasha Adwaters

Announcements top

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

Closed Session / Open Session top

Adjournment top

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF SEPTEMBER 21, 2021 AT 5 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on September 21, 2021, 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, Commissioner
Robert Pressley, Commissioner
Parker Sloan, Commissioner
Terri Wells, Commissioner
Al Whitesides, Vice Chair

Staff present: Avril Pinder, County Manager; Sybil Tate, Assistant County Manager; Dakisha Wesley, Assistant County Manager; Donald Warn, Finance Director; Jennifer Barnette, Budget Director; Sharon Burke, Human Resources Director; 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 Beach-Ferrara motioned to approve the Consent Agenda and the remainder of the agenda. Commissioner Wells seconded and the motion passed 7-0.

- Budget Amendment for Vaya Health Grant
  - Ordinance
- Budget Amendment for Medication Assisted Treatment (MAT) Grant - FY2022
  - Ordinance

PUBLIC COMMENT

Maureen McDonald voiced her dissatisfaction with the Board extending the COVID mask mandate.

Kay Olsen stated that she opposed the COVID mask mandate.

Tamara Parker stated that the Board was not listening to the people.

Zen Honeycutt opposes the COVID vaccination.

Bill Reed expressed his appreciation for the Board.

Tom Kirchgasser questioned the need for masks when the vaccination is available.

C. Reed opposed the COVID mask mandate.

Laurie Timmerman talked about the side effects of the COVID vaccination.

Don Yelton stated the Board would not listen to the people

PRESENTATIONS

- **Proclamation of Hispanic & Latino Month**

  Commissioner Beach-Ferrara presented and read the proclamation in Spanish and English.

PUBLIC HEARINGS

- **One Buncombe - American Rescue Plan**

Tim Love, Intergovernmental Relations, and Matt Raker, Mountain BizWorks Executive Director, explained that the purpose of the public hearing is to authorize $500,000 in economic development appropriations for small business job retainage grant program to assist those individuals who have suffered substantial financial damages due to the pandemic. The County will partner with Mountain BizWorks to administer the program, which features grants up to $5,000 for eligible small businesses.

The Chairman opened the hearing at 6:11 p.m.

The hearing was closed at 6:12 p.m.

Commissioner Wells moved to approve the resolution as presented. Commissioner Edwards seconded the motion and it passed 7-0.

- **FY 2023 Annual Section 5311 Administrative and Capital Grant Application**

Matt Cable, Planning Manager, provided background about the application process and the County role in providing the transportation service through Mountain Mobility.

The Chairman opened the hearing at 6:16 p.m.

The hearing was closed at 6:17 p.m.

Commissioner Pressley moved to adopt the Resolution Authorizing the Filing of Application with the North Carolina Department of Transportation Integrated Mobility Division for Grant Years FY 2023 – FY 2027, for Federal Transportation Assistance. Vice Chair Whitesides seconded the motion and it passed 7-0.

Commissioner Wells moved to adopt the Resolution Authorizing the Chairperson to Execute an Application for FY 2023 Public Transportation Program Funding, Enter Into Agreement with the North Carolina Department of Transportation, and to Provide the Necessary Certifications and Grant Documents. Commissioner Beach-Ferrara seconded the motion and it passed 7-0.

- **Emergency Paid Sick Leave**

Sharon Burke, Human Resources Director, explained that the policy change would provide salary continuation for employees who are either sick due to COVID-19 or are required to quarantine due to COVID-19 exposure.

The Chairman opened the hearing at 6:21 p.m.

The hearing was closed at 6:22 p.m.

Vice Chair Whitesides moved to approve the policy change as presented. Commissioner Sloan seconded the motion and it passed 7-0.

NEW BUSINESS

- **Consideration of Order Extending Requirements for Face Coverings in Public Spaces**

Michael Frue, Senior Staff Attorney, stated that the data trends supported extending the order.

Commissioner Sloan moved to extend requirements for face coverings in public spaces. Commissioner Beach-Ferrara seconded the motion and it passed 6-1. (NOES-Pressley)

- **Ferry Road Property Analysis and Site Planning – Phase 1**

Tim Love, Intergovernmental Relations, and Kim Williams, Equinox, detailed the Board on the site plan options and scenarios for the Phase 1 Review of the Ferry Road property. The Board considered the plans and provided feedback on preferences that they hope to see in future detailed plans.

Vice Chair Whitesides moved to authorize staff to proceed with the remaining phases of the contract. Commissioner Edwards seconded the motion and it passed 7-0.

- **Resolution Replacing the Substance Abuse Policy for Mountain Mobility with the Drug and Alcohol Testing Policy for Mountain Mobility, Buncombe County's Community Transportation System**

William High, Planning, explained the purpose of the resolution.

Commissioner Wells moved to approve the resolution as presented. Commissioner Sloan seconded the motion and it passed 7-0.

- **Resolution Approving Revisions to the System Safety Plan for Mountain Mobility, Buncombe County's Community Transportation System**

William High, Planning, explained the purpose of the resolution.

Chairman Newman moved to approve the resolution as presented. Commissioner Wells seconded the motion and it passed 7-0.

- **Resolution Amending the Title VI Plan and Authorizing the Chairperson to: Sign the Title VI Plan Review and Approval Document, Execute a Title VI Nondiscrimination Agreement, and Execute Necessary U.S. DOT Title VI Assurances for Mountain Mobility**

William High, Planning, explained the purpose of the resolution.

Chairman Newman moved to approve the resolution as presented. Commissioner Wells seconded the motion and it passed 7-0.

- **Budget Amendment for State Lottery Application Project –Buncombe County Schools Repaving**

Jennifer Barnette, Budget Director, explained the budget amendment.

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

- **Budget Amendment for Family Justice Center Grants**

Jennifer Barnette, Budget Director, and Paulina Mendez, Justice Services, explained the budget amendment.

Commissioner Edwards moved to approve the budget amendment to establish the GCC grant budget of $1,132,510. Commissioner Beach-Ferrara seconded and the motion passed 7-0.

Commissioner Beach-Ferrara moved to approve the budget amendment to establish a $96,905 transfer of County funds from appropriated fund balance to the GCC Grant. Commissioner Sloan seconded and the motion passed 7-0.

BOARD APPOINTMENTS

Chairman Newman moved to appoint **Natasha Adwaters** (non-profit) to the **Juvenile Crime Prevention Council**. Commissioner Edwards seconded and the motion passed 7-0.

ANNOUNCEMENTS

The Chairman made the following announcements:

- *September 24 @ 12 p.m. - American Rescue Plan Act Funding Public Input Session for Buncombe County District 1, Zoom meeting.*
- *September 27 @ 4 p.m. - American Rescue Plan Act Funding Public Input Session for Buncombe County District 2/3, Zoom meeting.*
- *September 28 @ 6 p.m. - American Rescue Plan Act Funding Public Input Session for Buncombe County District 2/3, Zoom meeting.*
- *October 5 @ 3 p.m. - Commissioners' Briefing at 200 College Street, Room 326 in downtown Asheville.*
- *October 5 @ 5 p.m. - Commissioners' Regular Meeting at 200 College Street, Room 326 in downtown Asheville.*

Vice Chair Whitesides moved to adjourn the meeting. Commissioner Beach-Ferrara seconded and the motion passed 7-0. The meeting was adjourned at 7:34 p.m.

LAMAR JOYNER, CLERK
BOARD OF COMMISSIONERS

BROWNIE NEWMAN, CHAIRMAN
BOARD OF COMMISSIONERS

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

Consent Agenda

Department:
Budget

Presenter(s):
Jennifer Barnette, Budget

Contact(s): Rebecca Smith,
Lisa White

Subject: VAYA ARP Child and Family Grant

Brief Summary:
Vaya Health was awarded funds from the American Rescue Plan and will distribute funding to local DSS's in order to prevent children from entering the foster care system. Funds will be used to support families in caring for children who are at risk of entering or who have entered the foster care system. The distribution of these funds are to be focused around social determinants of Health and will include $20,000 Client Support, such as rental deposits, household bills, Home repair, car repairs, and other basic needs for biological and kinship families. In addition, Vaya will reimburse Buncombe County $10,000 for staff training.

Recommended Motion & Requested Action:
Approve budget amendment

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

ORDINANCE #21-09-17

BUNCOMBE COUNTY, NORTH CAROLINA
Grant Projects Ordinance

BOARD MEETING DATE: September 21, 2021

WHEREAS, the Budget Director recommends and the Board now desires to amend the FY2021-2022 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 FY2021-2022 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

ADOPTED this 21st day of September, 2021.

Granting Agency:	Vaya Health
Grant Name:	VAYA ARP Child and Family Grant

Description:
Vaya Health was awarded funds from the American Rescue Plan and will distribute funding to local DSS's in order to prevent children from entering the foster care system. Funds will be used to support families in caring for children who are at risk of entering or who have entered the foster care system. The distribution of these funds are to be focused around social determinants of Health and will include $20,000 Client Support, such as rental deposits, household bills, Home repair, car repairs, and other basic needs for biological and kinship families. In addition, Vaya will reimburse Buncombe County $10,000 for staff training.

Funding Source:
Sub-recipient funding from Vaya Health federal award from American Rescue Plan

Exhibit A:	**Increase (Decrease)**	
Account Description	**Revenues**	**Expenditures**
Grant Revenue	$ (30,000)	$ -
Expenditures	$ -	$ 30,000
TOTAL	$ (30,000.00)	$ 30,000.00

ATTEST:

Tamara Laynes
Clerk to the Board

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE:

By: Brownie Newman
Chairman of the Board

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

Consent Agenda

Department:
Budget

Presenter(s):
Jennifer Barnette, Budget

Contact(s): Sheriff Quentin Miller
Lynn Smith, Sheriff's Office
Sarah Gayton, Sheriff's Office

Subject: Medication Assisted Treatment (MAT) Grant - FY2022

Brief Summary:
In FY2020, the Buncombe County Sheriff's Office (BCSO) received funding to develop a Medication Assisted Treatment (MAT) program in the Detention Facility. In FY2021, BCSO received $145,614 to continue the MAT program. BCSO has received $145,614 to continue the program in FY2022. $37,103 of these funds were previously carried forward in the General Fund.

This amendment:

1) Establishes the remaining grant budget in the Grants Fund
2) Extends one (1) grant funded position, as long as grant funding is available and costs do not exceed the authorized amount

No new county dollars are required.

Recommended Motion & Requested Action:
Approve budget amendment

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

ORDINANCE #21-09-18

BUNCOMBE COUNTY, NORTH CAROLINA
Grant Projects Ordinance

BOARD MEETING DATE: September 21, 2021

WHEREAS, the Budget Director recommends and the Board now desires to amend the FY2021-2022 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 FY2021-2022 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

ADOPTED this 21st day of September, 2021.

Granting Agency:	NC Department of Health & Human Services
Grant Name:	Medication Assisted Treatment (MAT) Grant - FY2022

Description:
In FY2020, the Buncombe County Sheriff's Office (BCSO) received funding to develop a Medication Assisted Treatment (MAT) program in the Detention Facility. In FY2021, BCSO received $145,614 to continue the MAT program. BCSO has received $145,614 to continue the program in FY2022. $37,103 of these funds were previously carried forward in the General Fund.

This amendment establishes the remaining grant budget in the Grants Fund. No new county dollars are required.

Funding Source:
$108,511 in remaining State Opioid Response (SOR) funding from NC DHHS passed through by Vaya Health to Buncombe County

Exhibit A:	**Increase (Decrease)**	
Account Description	**Revenues**	**Expenditures**
Fund 327 - Medication Assisted Treatment (MAT) Grant FY2022	$ 108,511	$ 108,511
TOTAL	$ 108,511	$ 108,511

ATTEST:

Tamara Jaynes
Clerk to the Board

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE:

By: Brownie Newman
Chairman of the Board

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

Presentations

Department: Communications & Public Engagement

Presenters: Hector Salgado, Paulina Mendez, Aaron Vidaurri, Lillian Govus

Contacts: Hector Salgado, Paulina Mendez, Aaron Vidaurri

Subject: Hispanic and Latino Heritage Month Proclamation

Brief Summary: Recognition of Hispanic and Latino Heritage in Buncombe County for Sept. 15-Oct. 15, 2021.

County of Buncombe

Proclamation

National Hispanic and Latino Heritage Month

WHEREAS, National Hispanic and Latino Heritage Month celebrates the Hispanic, Latino, Latina, and Latinx community and highlights its countless achievements; and

WHEREAS, the celebration is inclusive of all individuals who identify as Hispanic, Latino, Latina or Latinx, which is a non-gendered pan-ethnic term; and

WHEREAS, many Latinx people honor the complexity of their identities and trace their roots to the indigenous peoples of the Americas, including the Arawaks, the Aztecs, the Incas, the Maya, and the Tainos, but also to Spain, the conquistadores and those who came later, as well as to the Africans who were brought as slaves; and

WHEREAS, we acknowledge that Latinos have always been a part of this land and have made significant contributions to countless fields, which have resulted in the advancement of our society; and

WHEREAS, today we honor the invaluable ways Hispanics and Latinos regularly contribute to our common goals, celebrate their diverse cultures, and to work towards a stronger, more inclusive, and more prosperous society for all; and

WHEREAS, our national character is built upon the centuries-old traditions of Latinx people that reflect the multi-ethnic and multicultural customs of their communities, while adding their own distinct and dynamic perspectives to the story of our shared country; and

WHEREAS, the Latinx community is integral to our community with business owners and residents alike who are proud to be part of the Latinx community, and are immigrants and non-immigrants, documented and undocumented, and are our neighbors and friends, our comrades and compadres, our family and loved ones; and

WHEREAS, Buncombe County works on a continuous development of mutual understanding, safety, and respect among all our people; and

WHEREAS, this observance provides for a great opportunity to increase our knowledge about Hispanic history and to honor the braceros, the campesinos, the artists, the organizers, the veterans, the scientists, the refugees, the healers, the elders, the DREAMers and the many Hispanics who have contributed to Buncombe County;

WHEREAS, this year's theme is "Esperanza: A Celebration of Hispanic Heritage and Hope," which invites us to celebrate Hispanic and Latino Heritage and to reflect on how great our tomorrow can be if we hold onto hope, ask ourselves “What kind of ancestor do I want to be?” and step into intentional action; and

WHEREAS, Hispanic and Latino Americans represent a significant and fast-growing demographic of Buncombe County, growing more than 53 percent from the 2010 census; and

WHEREAS, five percent of Buncombe County Government employees identify as Hispanic or Latino.

NOW, THEREFORE, BE IT PROCLAIMED that September 15 - October 15, 2021 as **National Hispanic and Latino Heritage Month** in Buncombe County and encourage our community to join us in celebrating the great contributions of Hispanic, Latino, Latina and Latinx people to our county, state, and nation.

Brownie Newman
Chairman, Buncombe County Board of Commissioners

County of Buncombe

Proclamation

Mes Nacional de la Herencia Hispana y Latina

CONSIDERANDO que el Mes Nacional de la Herencia Hispana y Latina celebra la comunidad hispana, latina y latinx, y destaca sus innumerables logros, y

CONSIDERANDO que la celebración incluye a todas las personas que se identifiquen como hispanos, hispanas, latinos, latinas o latinx e hispanx, que son términos panétnicos sin género, y

CONSIDERANDO que muchos pueblos latinx honran la complejidad de sus identidades y remontan sus raíces a los pueblos indígenas de las Américas, e incluyen a los arahuacos, los aztecas, los incas, los mayas y los taínos, pero también a España, los conquistadores y los que vinieron después, así como a los africanos que fueron traídos como esclavos, y

CONSIDERANDO que reconocemos que los pueblos latinx siempre han formado parte de esta tierra y han realizado importantes contribuciones en innumerables campos, que han dado lugar al avance de nuestra sociedad, y

CONSIDERANDO que hoy honramos las invaluables formas en que hispanx y latinx contribuyen regularmente a nuestras metas comunes, celebramos sus diversas culturas y trabajamos por una sociedad más fuerte, más inclusiva y más próspera para todos, y

CONSIDERANDO que nuestro carácter nacional se construye sobre las tradiciones centenarias de los pueblos latinx que reflejan las costumbres multiétnicas y multiculturales de sus comunidades, a la vez que añaden sus propias perspectivas singulares y dinámicas a la historia de nuestro país compartido, y

CONSIDERANDO, que la comunidad de latinx es parte integral de nuestra comunidad con propietarios de negocios y residentes por igual que están orgullosos de ser parte de la comunidad latinx, y son inmigrantes y no inmigrantes, documentados e indocumentados, y son nuestros vecinos y amigos, nuestros camaradas y compadres, nuestros familiares y seres queridos, y

CONSIDERANDO que el condado de Buncombe trabaja en el desarrollo continuo del entendimiento, la seguridad y el respeto mutuos entre toda nuestra gente, y

CONSIDERANDO que esta observancia proporciona una gran oportunidad para aumentar nuestro conocimiento sobre la historia hispana y para honrar a los braceros, los campesinos, los artistas, los organizadores, los veteranos, los científicos, los refugiados, los sanadores, los ancianos, los DREAMers y los muchos hispanx que han contribuido al condado de Buncombe;

CONSIDERANDO que el tema de este año es "Esperanza: una celebración de la herencia hispana y la esperanza", que nos invita a celebrar la herencia hispana y latina y a reflexionar sobre lo grandioso que puede ser nuestro futuro si nos aferramos a la esperanza, nos preguntamos “¿Qué clase de ancestro quiero ser?” y pasamos a la acción intencional, y

CONSIDERANDO que la comunidad americana de hispanx y latinx representa un grupo demográfico significativo y de rápido crecimiento en el condado de Buncombe, con un crecimiento de más del 53 % desde el censo de 2010, y

CONSIDERANDO que el 5 % de los empleados del gobierno del condado de Buncombe se identifican como hispanx o latinx,

AHORA, POR LO TANTO, proclámese del 15 de septiembre al 15 de octubre de 2021 el Mes Nacional de la Herencia Hispana y Latina en el condado de Buncombe e invítese a nuestra comunidad a unirse a nosotros para celebrar las grandes contribuciones de hispanos, hispanas, hispanx, latinos, latinas y latinx a nuestro condado, estado y nación.

Brownie Newman
Presidente, Junta de Comisionados del Condado de Buncombe

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

Public Hearings

Department: County Manager's Office

Presenter(s): Timothy Love

Contact(s): Timothy Love, Rachael Nygaard

Subject: Public Hearing - One Buncombe Fund

Brief Summary:
The purpose of the September 21st Public Hearing is to authorize $500,000 in economic development appropriations in accordance with GS 158-7.1 and Ch. 166A. These appropriations are for $500,000 for the facilitation of the One Buncombe small business job retainage grant program to assist those individuals who have suffered substantial financial damages due to the pandemic. This project was approved by the Buncombe County Board of Commissioners at its August 31st meeting for funding with American Rescue Plan Local Fiscal Recovery Funding. As an economic development appropriation, staff have provided a 10 day notice for this public hearing. If approved, funds will be made available for this program and the County will partner with Mountain BizWorks, a Community Development Financial Institution, to administer the program which features grants up to $5,000 for eligible small businesses.

Recommended Motion & Requested Action:
Conduct the public hearing and approve the Resolution authorizing the $500,000 economic development appropriation for the One Buncombe program.

County Manager's comments and Recommendation:
Manager recommends approval as presented.

Resolution #: 21-09-19

RESOLUTION AUTHORIZING APPROPRIATION FOR ECONOMIC DEVELOPMENT TO MOUNTAIN BIZWORKS, INC.

_____

WHEREAS, in response to the COVID-19 pandemic this Board created the One Buncombe fund in March of 2020 to support relief efforts for individuals and businesses in the community;

WHEREAS, the COVID-19 state of emergency continues and this Board requested a public hearing to consider further financial support in the amount of Five Hundred Thousand ($500,000) Dollars for a small business job retainage grant program to assist those individuals who have suffered substantial financial damages due to the pandemic;

WHEREAS, this investment will further the economic interests of the County in numerous ways by creating a mechanism to increase and maintain the population, taxable property, employment, industrial output, and small business prospects in Buncombe County;

WHEREAS, pursuant to the provisions of North Carolina General Statutes §158-7.1 and NCGS Chapter 166A, the North Carolina Emergency Management Act, this Board deems it desirable and in the best interests of the County and its businesses and residents to make this economic development appropriation to Mountain BizWorks, Inc.; and

WHEREAS, this Board of Commissioners has organized and approved the holding of a public hearing at a regular meeting of the Board on September 21, 2021 to discuss making appropriations to Mountain BizWorks, Inc.

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

1. Pursuant to the provisions of NCGS §158-7.1 and NCGS Chapter 166A, the North Carolina Emergency Management Act, this Board approves appropriating and spending from the American Rescue Plan Local Fiscal Recovery Funding in the amount of Five Hundred Thousand ($500,000) Dollars to Mountain BizWorks, Inc.

2. This Board approves entering into an Agreement by and between Buncombe County and Mountain BizWorks, Inc. for its administration of these funds.

3. That this Board finds and determines that these efforts to provide grants for a small business job retainage grant program to assist those individuals who have suffered substantial financial damages due to the pandemic will further the economic interests of the County in numerous ways by creating a mechanism to increase and maintain the population, taxable property, employment, industrial output, and small business prospects in Buncombe County.

4. The Chairman and County Manager, or either of them, are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, except that none of the above

shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution.

5. 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.

6. 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.

7. This Resolution is effective upon its adoption.

This the 21st day of September, 2021.

ATTEST

Lamar Joyner, Clerk

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney

One Buncombe, COVID-19 Rapid Relief Fund

Public Hearing

September 21, 2021

Request

Background:

- The One Buncombe program was launched in April 2020 to support individuals and small businesses impact by COVID-19.
- At the August 31st meeting, the Buncombe County Board of Commissioners allocated $500,000 of American Rescue Plan Local Fiscal Recovery Funding towards the One Buncombe program.
- As an economic development appropriation, this allocation requires a notice and public hearing.

Request:

Board of Commissioners approval for the following:

- Resolution authorizing the $500,000 economic development appropriation into the One Buncombe program; and
- Authorization to the County Manager to contract with Mountain BizWorks to administer the program.

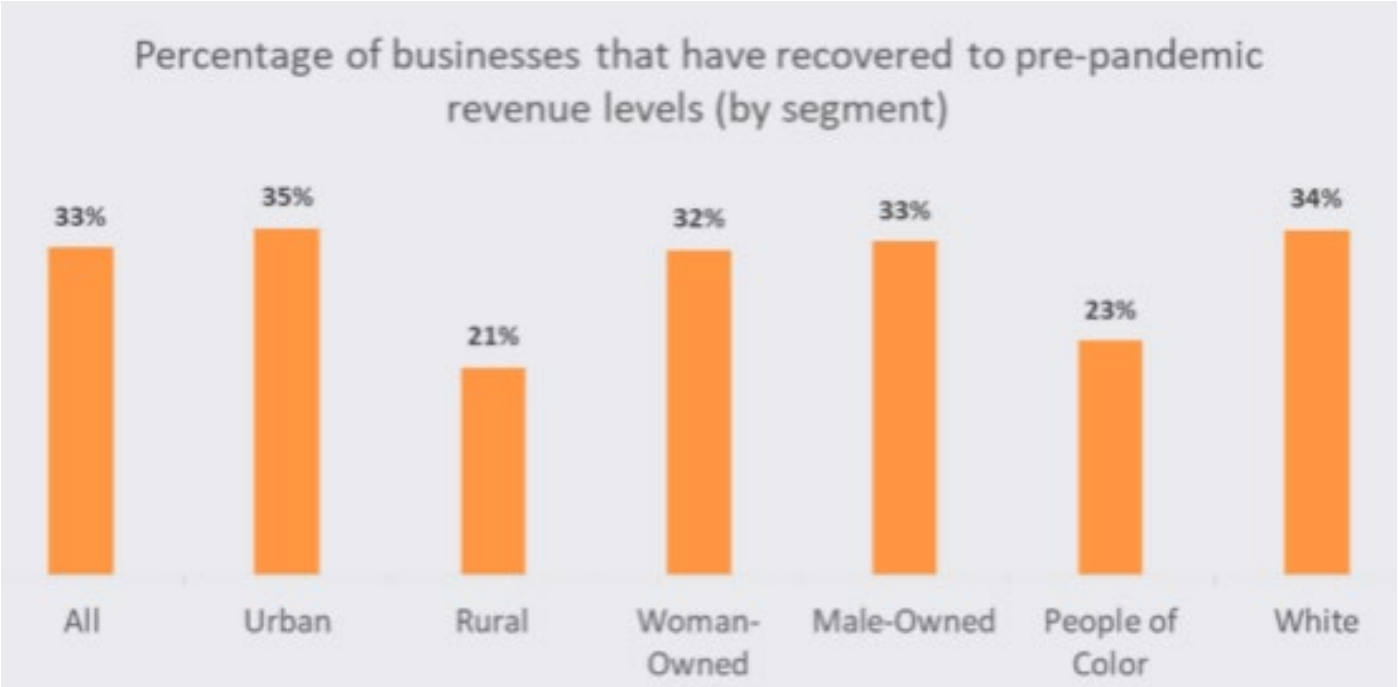
One Buncombe Results

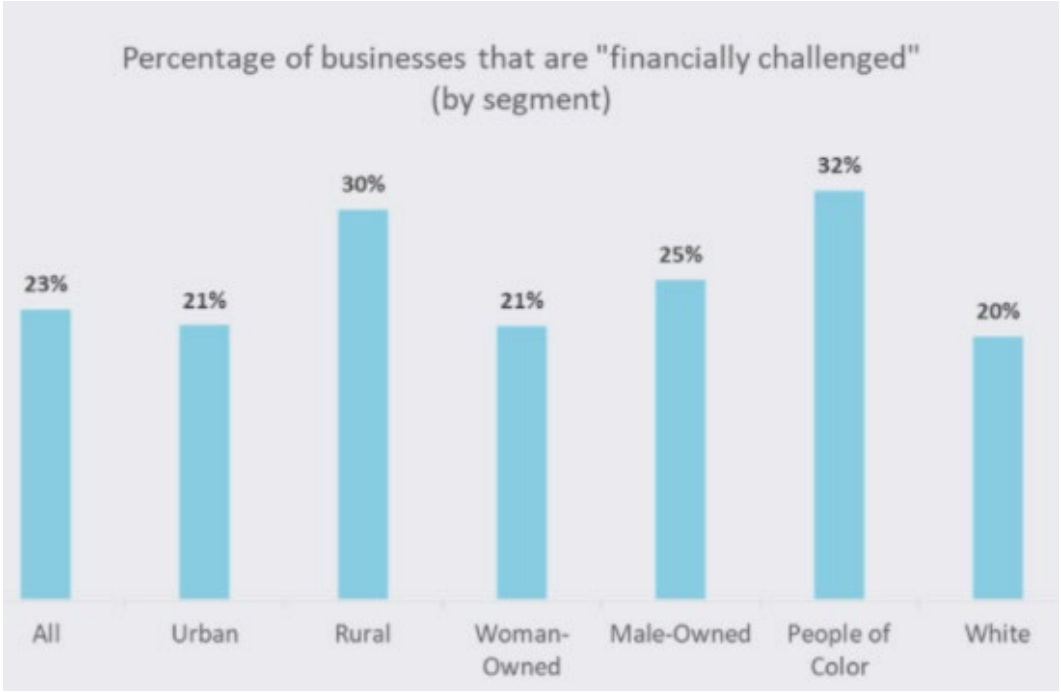
- In April 2020, the **Community banded together to create the One Buncombe Fund and raised more than $1.6M** for individuals and small businesses.
- **One Buncombe results:**
  - **Phase 1: 1,200+ individuals** with housing, utilities, and emergency assistance; **95 small business loans to support** 600+ local jobs
  - **Phase 2:** 116 grants to local businesses to directly assist 406 living-wage jobs by supporting the retention of 253 employees and rehiring of 153 workers
  - **Equitable Support:** 62% to women-owned; 31% to people-of-color-owned; 75% to business with less than 5 employees

Continued Need

- **60% of small businesses are below pre-pandemic revenue levels and 25% of small businesses consider themselves to financially challenged*.**
- Impacts are disproportionate among people of color-owned and rural-based businesses who are recovering to pre-pandemic levels at a slower pace (23% POC, 21% rural, 33% overall)*.
- Our smallest businesses report the most uncertainty as 24% of businesses with less than 5 employees feel financially challenged compared to 7% of businesses with 21-50 employees*.
- Businesses continue to deal with **depleted cash reserves, increased debt, and the uncertainty associated with the pandemic.**

Recovery by Segment





Small Business Grants – Meeting Unmet Needs

- **Eligibility:**
  - Small businesses impacted by COVID-19 (less than 25 employees).
  - Ability to demonstrate retention or rehire of employees.
  - Ability to retain employees for 6 months from grant award.
  - No prior reciept of One Buncombe grant funds
- **Focus Areas:**
  - PPP-ineligible
  - People of Color-owned businesses
  - Woman-owned businesses
  - Sole Proprietorships
- **Usage of Funds:** business operations tied to retainage and rehire of employees at a living wage[1].
- **Model:** Grants up to $5,000 (1+ employees retained) or $2,500 (1 employee retained)
- **Administered by:** Mountain BizWorks

How Do I learn More?

www.mountainbizworks.org/1bf

Request

Board of Commissioners approval for the following:

- Resolution authorizing the $500,000 economic development appropriation into the One Buncombe program.

Next Steps

- **Press and Community Outreach:** begins now
- **Application Launch:** October 1
- **Application Close:** October 31
- **Awardees Receive Funds:** end of November

One BUNCOMBE
A COMMUNITY WITH COMPASSION, DONATE TODAY!
ONEBUNCOMBE.ORG

Appendix

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

Public Hearings

Department: Planning & Development, Community Development Division

Presenter(s): Matthew Cable Contact(s): Matthew Cable

Subject: FY 2023 Annual Section 5311 Administrative and Capital Grant Applications

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. The FY 2023 Grant Application budgets are summarized below.

Section 5311 Administrative Grant		
Source	**Percent**	**Funding**
Federal Share	80%	$311,846
State Share	5%	$19,490
Local Share	15%	$58,472
Total Expenditures	100%	$389,808

Section 5311 Capital Grant		
Source	**Percent**	**Funding**
Federal Share	80%	$127,010
State Share	10%	$15,876
Local Share	10%	$15,877
Total Expenditures	100%	$158,763

The Section 5311 grant application requires a public hearing and authorizing resolutions. 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 authorizing resolutions are attached.

Recommended Motion & Requested Action:

Hold a public hearing; adopt the Resolution Authorizing the Filing of Application with the North Carolina Department of Transportation Integrated Mobility Division for Grant Years FY 2023 – FY 2027, for Federal Transportation Assistance; and adopt the Resolution Authorizing the Chairperson to Execute an Application for FY 2023 Public Transportation Program Funding, Enter Into Agreement with the North Carolina Department of Transportation, and to Provide the Necessary Certifications and Grant Documents.

County Manager's Comments and Recommendation:

Hold a public hearing and adopt the authorizing resolutions as recommended.

RESOLUTION NO. 21-09-20

RESOLUTION AUTHORIZING THE FILING OF APPLICATION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION – INTEGRATED MOBILITY DIVISION FOR GRANT YEARS FY 2023 – FY 2027, FOR FEDERAL TRANSPORTATION ASSISTANCE AUTHORIED BY 49 U.S.C. 5311, UNITED STATES CODE, OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION OR STATE STATUTES ADMINISTERED BY THE STATE OF NORTH CAROLINA

WHEREAS, the North Carolina Department of Transportation has been delegated authority to award federal financial assistance for transit projects as allocate throughout North Carolina by County;

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 authorized to execute and file an application for federal assistance on behalf of Buncombe County with the State of North Carolina for federal assistance authorized by 49 U.S.C. Chapter 5311 United States Code, other federal statutes or state statutes authorizing a project administered by the Federal Transit Administration.

2. That the Chairperson of the Buncombe County Board of Commissioners is authorized to execute and file with its applications the annual certifications and assurances or other documents the State of North Carolina requires before awarding a federal assistance grant or cooperative agreement.

3. That the Chairperson of the Buncombe County Board of Commissioners is authorized to execute grant and cooperative agreements with the State of North Carolina on behalf of Buncombe County.

4. That this Resolution is effective upon its adoption.

   Adopted this 21st day of September, 2021.

ATTEST:

Lamar Joyner, Clerk to the Board

BOARD OF COMMISSIONERS
FOR THE COUNTY OF BUNCOMBE

By: _____
Brownie Newman, Chairperson

APPROVED AS TO FORM:

County Attorney

5311 DESIGNEE CERTIFICATION FORM

The undersigned duly qualified Clerk to the Board, acting on behalf of Buncombe County, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Buncombe County Board of Commissioners held on the 21st day of September, 2021.

_____
(Signature of Recording Officer)

(COUNTY SEAL)

Clerk to the Board
(Title of Recording Officer)

_____
(Date)

RESOLUTION NO. 21-09-21

RESOLUTION AUTHORIZING THE CHAIRMAN TO EXECUTE AN APPLICATION FOR FY 2023 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 21st day of September, 2021.

ATTEST:

Lamar Joyner, Clerk to the Board

BOARD OF COMMISSIONERS
FOR THE COUNTY OF BUNCOMBE

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 _____ and seconded by _____ 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.

_____
(Signature of Certifying Official)

(COUNTY SEAL)

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

****

Subscribed and sworn to me this _____ day of _____, 2020.

_____
Notary Public Signature (NOTARY SEAL)

_____
Printed Name

_____
Address

_____
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.

Buncombe County Community Development Division

Matthew Cable, AICP
Community Development Division Manager

MEMORANDUM

To: Buncombe County Board of Commissioners

From: Matthew Cable, AICP, Community Development Division Manager

Date: September 21, 2021

Subject: FY 2023 Section 5311 Community Transportation Program Grant Applications Summary

Applications for Section 5311 include both an Administrative Grant Application and a Capital Grant Application process.

Administrative Grant

Federal Funds:	$311,846 (80%)
State Funds:	$ 19,490 (5%)
Local Match:	$ 58,472 (15%)
Total Application:	$389,808 (Maximum Level)

Administrative funds help offset technology and communication costs of software and systems used for eligibility, reservations, scheduling, dispatching, data communications, etc., as well as operations facility costs, employee training and development, vehicle insurance, and other eligible administrative costs related to providing Mountain Mobility services and programs.

Capital Grant

Federal Funds:	$127,010 (80%)
State Funds:	$ 15,876 (10%)
Local Match:	$ 15,877 (10%)
Total Application:	$158,763

Capital funds will be used to replace the following items that have met state/federal mileage or age criteria for replacement of:

- One (1) non lift-equipped van with propane conversion;
- One (1) lift-equipped van with propane conversion; and
- Ten (10) mobile radio units.

Total Administrative and Capital Grants

Federal Funds:	$438,856 (80%)
State Funds:	$ 35,366 (6%)
Local Match:	$ 74,349 (14%)
Total:	$548,571

FY23 SECTION 5311 GRANT APPLICATIONS

Presented by

Matthew Cable

Community Development Division

FY23 5311 GRANT FUNDING SUMMARY

$438,856	Federal Funds
$35,366	State Funds
$74,349	Local Match
$548,571	Total

GRANT AND LOCAL FUND PURPOSES

Administration Support

- Management Contracts, Data Processing, Utilities, Lease of Office Space

Capital Acquisition

- 1 - Raised Roof Lift Van with Propane Conversion
- 1 - Raised Roof Non-Lift Van with Propane Conversion
- 10 – Mobile Radio Units

REQUEST FOR BOARD ACTION

- Hold a public hearing
- Adopt the Resolution Authorizing the Filing of Application with the North Carolina Department of Transportation Integrated Mobility Division for Grant Years FY 2023 – FY 2027, for Federal Transportation Assistance
- Adopt the Resolution Authorizing the Chairperson to Execute an Application for FY 2023 Section 5311 Public Transportation Program Funding, Enter Into Agreement with the North Carolina Department of Transportation, and to Provide the Necessary Certifications and Grant Documents.

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

Public Hearings

Department: Human Resources **Presenter(s): Sharon Burke, HR Director**

Contact(s):

Subject: Emergency Paid Sick Leave (EPSL)

Brief Summary: To provide salary continuation for employees who are either sick due to COVID-19 or are required to quarantine due to COVID-19 exposure.

Recommended Motion & Requested Action: Consider approving the temporary benefit presented.

County Manager's comments and Recommendation: County Manager recommends approval.

Emergency Paid Sick Leave (EPSL)

Contents

1.0 Purpose 1
2.0 Applicability 1
3.0 Policy 1
4.0 Policy Non-Compliance 3
5.0 Audit 3
6.0 Definitions 3

1.0 Purpose

The purpose of this temporary policy is to provide salary continuation for employees who are either sick due to COVID-19 or have a suspected workplace COVID-19 exposure and are required to quarantine.

This policy is separate from and independent of any existing sick leave policies that the County grants employees in the normal course of business.

2.0 Applicability

All employees will be eligible to utilize their unused Emergency Paid Sick Leave hours as described below.

3.0 Policy

1. Emergency Paid Sick Leave (EPSL) will be available for an employee who is unable to work or work remotely because:
   - 1.1. The employee is subject to federal, state, or local quarantine/isolation order related to COVID-19.
   - 1.2. The employee has been advised by a health care provider to self-quarantine because they are infected with, or have been exposed to, or are at high risk of complications from COVID-19.
   - 1.3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
   - 1.4. The employee is experiencing side effects from the COVID-19 vaccine.
2. The County Manager has the discretion to increase ESPL hours, as needed, in response to the COVID-19 crisis.

3. Eligibility for EPSL
   3.1 All full time employees will be granted up to 80-hours of EPSL, part time employees will receive prorated hours based on their annual scheduled hours to use during the COVID-19 Crisis.

Return to Work Following EPSL

Employees are required to have a return to work notice from Buncombe County's Employee & Family Heath Center and follow guidelines established by the Centers for Disease Control and prevention.

Notification of Leave Request

Employees should request their need for emergency paid leave as soon as they have been placed on quarantine, by notifying their immediate supervisor AND Employee and Family Health.

Employee and Family Health will provide a stay at home notice to the employee through their Buncombe County email. The employee must forward this notice to Beth Ray at: FMLA@buncombecounty.org to be approved to use this leave benefit.

If an employee is incapacitated, the employee's representative should contact the employee's supervisor as soon as possible.

Policy Non-Compliance

Employees who meet the qualifications must apply for the expanded benefits by emailing FMLA@buncombecounty.org. Failure to submit the required documents will delay or deny the ability to participate in this benefit.

4.0 Audit

All policies for Buncombe County may be subject to audit or review as outlined in the Internal Auditor's Statement. The Internal Auditor's Statement is incorporated into all County policies through this reference.

Definitions

a. **Effective date**: This policy shall be in effect from January 1, 2021 and shall remain in effect during the COVID-19 crisis.

EMERGENCY PAID SICK LEAVE

Presented by

Sharon Burke, Director of Human Resources

CURRENT POLICY

Initial Policy Approved - in February 2021 retroactively to January 1, 2021

Extend Emergency Sick leave for employee use only

- No new hours granted (80 hours).

Provide select positions with a COVID quarantine benefit

- Benefit provides salary continuation while the employee waits on the results of their COVID-19 test results.
- The maximum benefit per incident is five (5) shifts or until the employee receives their test results, whichever is sooner.
  - Detention Officers, Patrol Deputies, EMT's, Scale House Attendant, staff administering COVID-19 Vaccines, and COVID-19 test and vaccine site personnel.

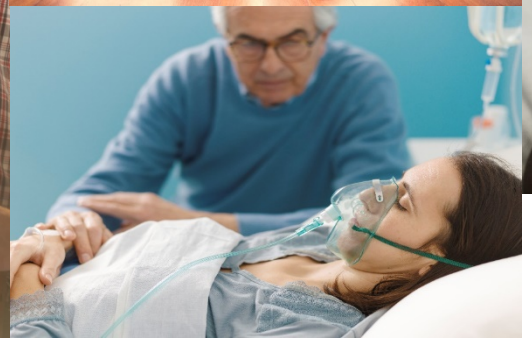
RECOMMENDATION

- Remove quarantine leave as it is not equitable for all
- Reset all employees to have an 80-hour COVID sick leave bank to use for their own quarantine or COVID positive leave
- Provide the County Manager the discretion to increase COVID sick leave hours, if crisis continues

NEXT STEPS

- Approve Policy

Questions?



STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

September 21, 2021

ORDER EXTENDING
REQUIREMENTS FOR FACE COVERING IN PUBLIC SPACES

WHEREAS, beginning in December 2019, a novel coronavirus, now designated SARS-CoV2 which causes the disease COVID-19, has spread through the world and has now been declared a global pandemic by the World Health Organization; and

WHEREAS, a State of Emergency was declared by the Governor of North Carolina on March 10, 2020;

WHEREAS, a local State of Emergency was declared by Buncombe County Commissioners on March 12, 2020, acknowledging the gravity of the COVID-19 pandemic;

WHEREAS, Governor Cooper has, as circumstances have changed over time, issued a number of modifications to the statewide emergency declaration, including Executive Order Nos.117-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228, and 229;

WHEREAS, the Centers for Disease Control and Prevention ("CDC") advises that viruses constantly change through mutation and new variants of viruses are expected to occur;

WHEREAS, the CDC reports that the Delta variant is more infectious and is leading to increased transmissibility when compared to other variants, even in vaccinated individuals;

WHEREAS, the CDC recommends that in areas of substantial or high transmission that people wear masks indoors in public to maximize protection from the Delta variant and prevent possibly spreading it to others;

WHEREAS, current incidence rates in Buncombe County demonstrate an incidence rate of 295 per 100,000 per week which is an increase from 261 one month prior; about 110 new cases are entering the public health workflow daily, and the percent of COVID-19 test resulting positive is 8.4%;

WHEREAS, based on these data trends, indicating substantial or high transmission rates locally, Buncombe County public health officials recommend that Buncombe County follow this CDC guidance; and

WHEREAS, this Board finds it in the best interest of the citizens and residents of Buncombe County to align with CDC guidance and with the Governor's executive orders.

NOW THEREFORE, pursuant to the authority contained in Chapter 21, Buncombe County Code of Ordinances and Article 1A of the N.C. Gen. Stat. Chapter 166A, the Board of Commissioners, do hereby declare and order the following:

1. Buncombe County aligns with the Governor's executive orders and health guidance related to COVID-19 as same are related to the pandemic.

2. Pursuant to authority set forth in Executive Order 224, Section 2.4.a. and Section 1 of Executive Order 229, face coverings are required of all Buncombe County citizens, residents and visitors in any indoor spaces in public spaces to maximize protection from the Delta variant and prevent possibly spreading it to others.

    a. Indoor public places means business establishments, offices and workplaces, public transportation facilities and vehicles, and any indoor place the public is invited or allowed to enter and gather.

    b. For restaurants, bars, and other food establishments, this includes that all guests wear face coverings at their tables unless actively drinking or eating.

    c. "Restaurants" means permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food. This includes, but is not limited to, restaurants, cafeterias, food halls, dining halls, food courts, and food kiosks

    d. “Bars" means establishments that are not eating establishments or restaurants as defined in N.C. Gen. Stat.§§ 18B-1000(2) and 18B-1000(6).

3. Face Coverings must be worn indoors if anyone else is in that space who is not a member of the same household. This order does not apply in situations where individuals are alone in an office or other similar work environment, in the home, or in outdoor settings where social distancing can be achieved.

4. This order shall apply to all people at least five (5) years old, unless an exception applies. These requirements are recommended for all people over the age of two (2) years old.

5. This order may not apply due to Face Covering Exemptions set forth in Executive Order 209 or where medical or developmental conditions prohibit use.

6. All operators and owners of indoor public spaces are strongly recommended to implement social distancing practices within spaces to further minimize the risk of spread in addition to the face covering requirement.

7. Worship, religious, and spiritual gatherings, funeral ceremonies, wedding ceremonies, and other activities constituting the exercise of First Amendment rights are exempt from all the requirements of this order.

8. All entities and individuals engaging in these exempted activities are strongly encouraged to follow the continuing recommendations to Promote Social Distancing and Reduce Transmission by wearing and requiring Face Coverings. Wearing a proper face covering does not replace social distancing.

9. All citizens, residents and visitors are strongly encouraged to follow additional CDC and NCDHHS guidance which can be found at https://covid19.ncdhhs.gov/guidance.

10. This order shall remain in effect until October 29, 2021 or unless otherwise repealed, replaced, or rescinded, and may be extended based on data trends.

11. By and with the consent of the mayors of the following named municipalities within Buncombe County, this order applies within the municipal limits of the City of Asheville, the Town of Biltmore Forest, the Town of Montreat, the Town of Black Mountain, the Town of Woodfin, and the Town of Weaverville.

12. It is further ordered that the Emergency Management Plan adopted by Buncombe County, and that all applicable mutual assistance compacts and agreements are in effect and shall remain in effect until this order expires or is rescinded. All Emergency Management and Health and Medical Services personnel are hereby ordered to cooperate in the implementations of the provisions of the County's Emergency Management Plan.

13. We direct that copies of this order be disseminated to the mass communications media for publication and broadcast, and that a copy of this order be posted at the County Courthouse and other public buildings as appropriate.

14. If any subsection, sentence, clause, phrase, or word of this order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this order.

15. Electronic Signature. This order may be executed in one or more counterparts by PDF or other electronic transmission, each of which shall be deemed an original and which, when taken together, shall constitute one document.

16. This order is effective upon its adoption.

Adopted this the 21st day of September, 2021.

ATTEST:

Lamar Joyner, Clerk

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE

By: _____
Brownie Newman, Chairman

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

New Business

Department: Economic Development

Presenter(s): Timothy Love
Kim Williams

Contact(s): Timothy Love

Subject: Ferry Road Property Analysis and Site Planning – Phase 1

Brief Summary:

On March 2, 2020, Buncombe County Commissioners approved a contract to conduct a Property Analysis and Site Planning Services for the Ferry Road property. As indicated during that meeting, at the completion of Phase 1, the results would be presented to the Board of Commissioners. Phase 1 includes, but is not limited to, environmental and natural resource inventory/assessment, transportation and access assessment, and initial community input/awareness.

Buncombe County staff are seeking input from the Board of Commissioners on Phase 1 land usage concepts, as well as authorization to proceed with the remaining two additional phases. The Board has previously budgeted funds of $90,319.

Recommended Motion & Requested Action:

Authorize staff to proceed with the remaining phases of the contract.

County Manager's comments and Recommendation:

Approve as presented.

Ferry Road Land Use Plan

A VISION FOR THE FUTURE

Asheville, NC

2021

BUNCOMBE COUNTY
PEOPLE TO MATCH OUR MOUNTAINS
NORTH CAROLINA

EQUINOX
balance through proper planning

LORD AECK SARGENT

TRAFFIC PLANNING AND DESIGN, INC.

wood.

INTRODUCTION

Vision

The site will be home to an inclusive and affordable live, work, and play community which is surrounded and inspired by nature, has thoughtful connectivity and equitable access to transportation, has diverse recreational opportunities for health and wellness, and is a contributor to a vibrant economy by supporting industries that pay living wages.

Goals

Host a diverse live-work-play and "aging in place" community.

Increase a well-paid, living wage, work force by hosting commercial or specialized manufacturing employers.

Be a hub and connector for diverse recreation opportunities.

Provide inclusive & affordable housing.

Be a model for sustainability & stewardship.

Provide equitable transportation access and prioritize pedestrians and bicyclists..

Inspire Opportunity for Partnerships

Metrics for Measuring Success

(Example for each goal)

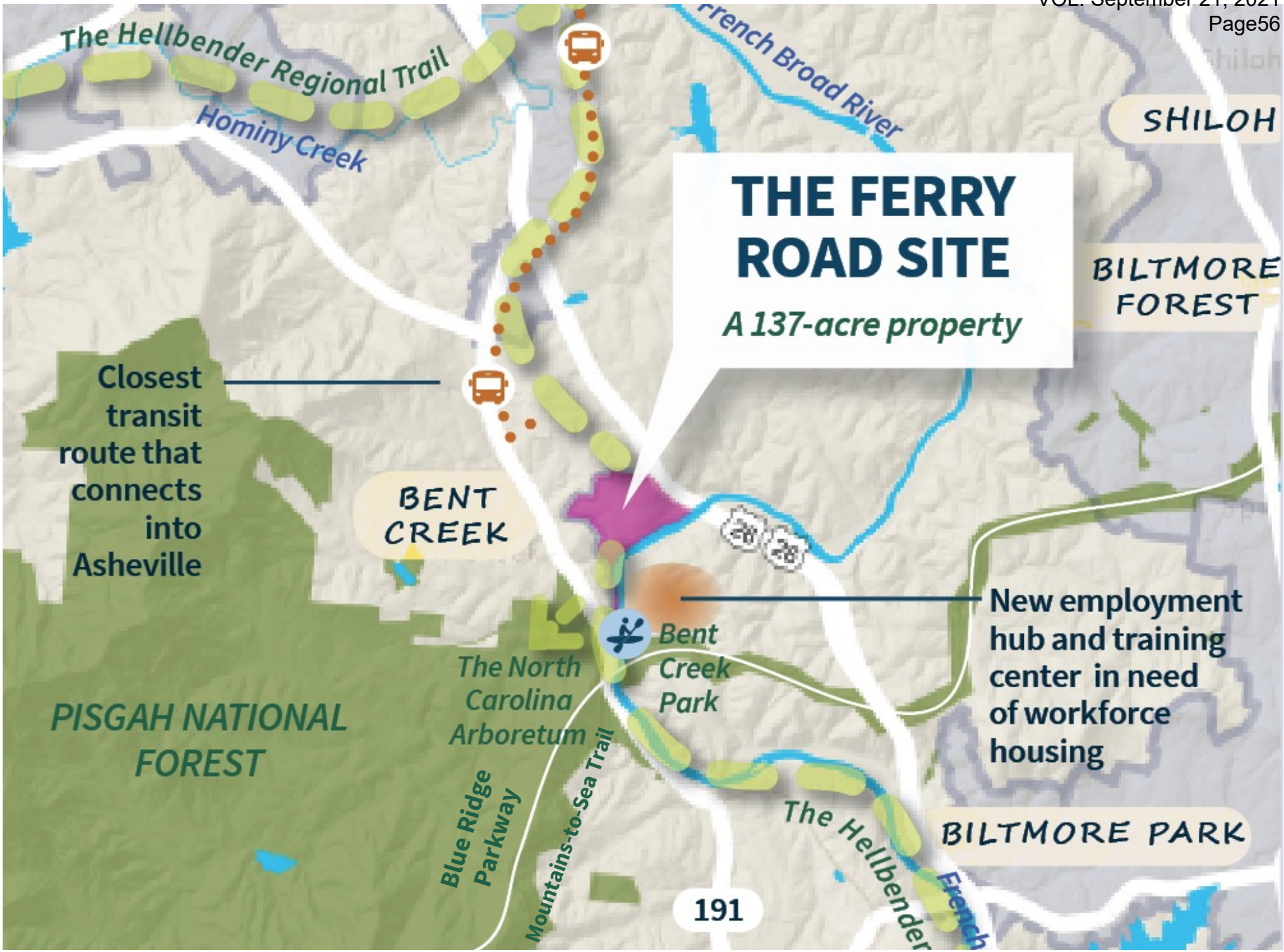
Italicized & bold items indicate metrics that also meet different Buncombe County business plans for each of its departments.

Host a diverse live-work-play and "aging in place" community.

- Achieves balance of living, work, and play through land use types.
- Achieves balance of a mix of incomes.
- ***Recreation Services Business Plan: % of County residents within a 10-minute walk of full-service, age and ability inclusive recreation spaces to county residents.***
- ***Recreation Services Business Plan: % of County residents within a 10-minute drive of full-service, age and ability inclusive recreation spaces to county residents.***

Provide inclusive & affordable housing.

- Affordable housing options (measurement TBD)
- Percent of affordable home ownership opportunities.
- ***Planning Business Plan: % of major subdivisions and multi-family development projects approved under Community Oriented Development, Conservation Subdivision Development, Alternative Path Hillside Development regulations, or other alternative regulations (ex: Cottage Development).***
- ***Planning Business Plan: Number of households impacted by the Affordable Housing Services Program and Community Oriented Development option***



Ferry Road Land Use Plan

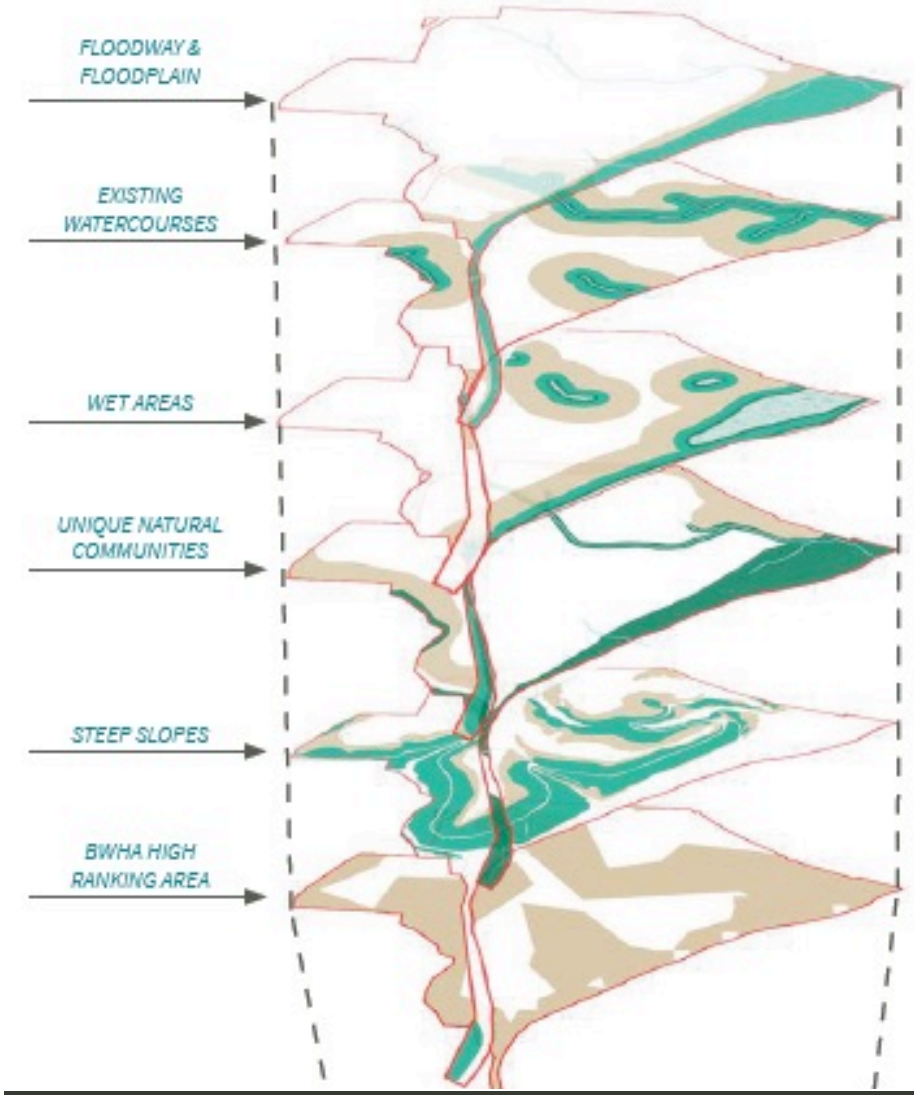
Ferry Road Land Use Plan

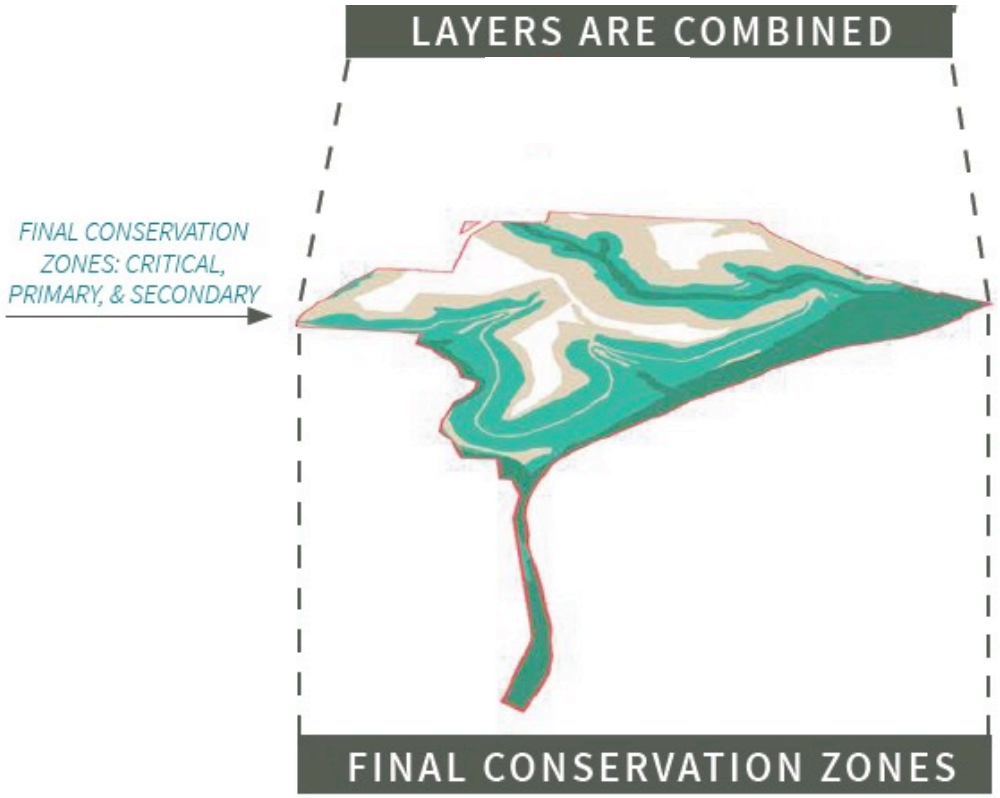
NATURAL RESOURCE ASSESSMENT

Ferry Road Land Use Plan

CONSERVATION ZONES

Summary of How the Conservation Zones Were Developed:





CONSERVATION ZONES

Critical: Critical conservation zones were developed to illustrate the areas on the property where there are the most critical natural resources, unique natural communities, and areas within close proximity to aquatic resources. Data layers included in this zone are as follows:

- **Existing watercourses (buffered by 30 feet)** [to protect water quality on-site and in the French Broad River; require permit to impact]
- **Wetlands previously delineated on-site and National Wetlands Inventory (NWI), buffered by 30 feet** *[to enhance protection of these important features; require permit to impact]*
- **Riparian natural communities & unique natural resources** (identified during Equinox fieldwork) *[to protect State-ranked communities and pocket areas with potential rare species (bat & salamander) habitat]*

Important Natural Communities

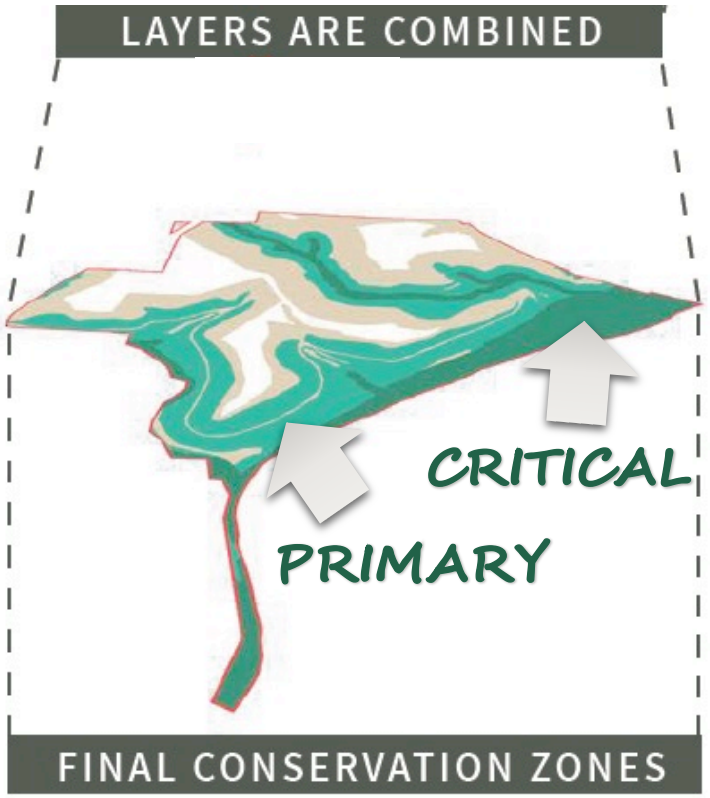
Swamp Forest-Bog Complex

Rocky Bluffs

CONSERVATION ZONES

Primary: Primary conservation zones expand upon the critical zones and display where there are additional critical resources and challenging landscape features such that development or alteration of the land would create considerable impacts that could trigger environmental permitting. Data layers included in this zone are as follows:

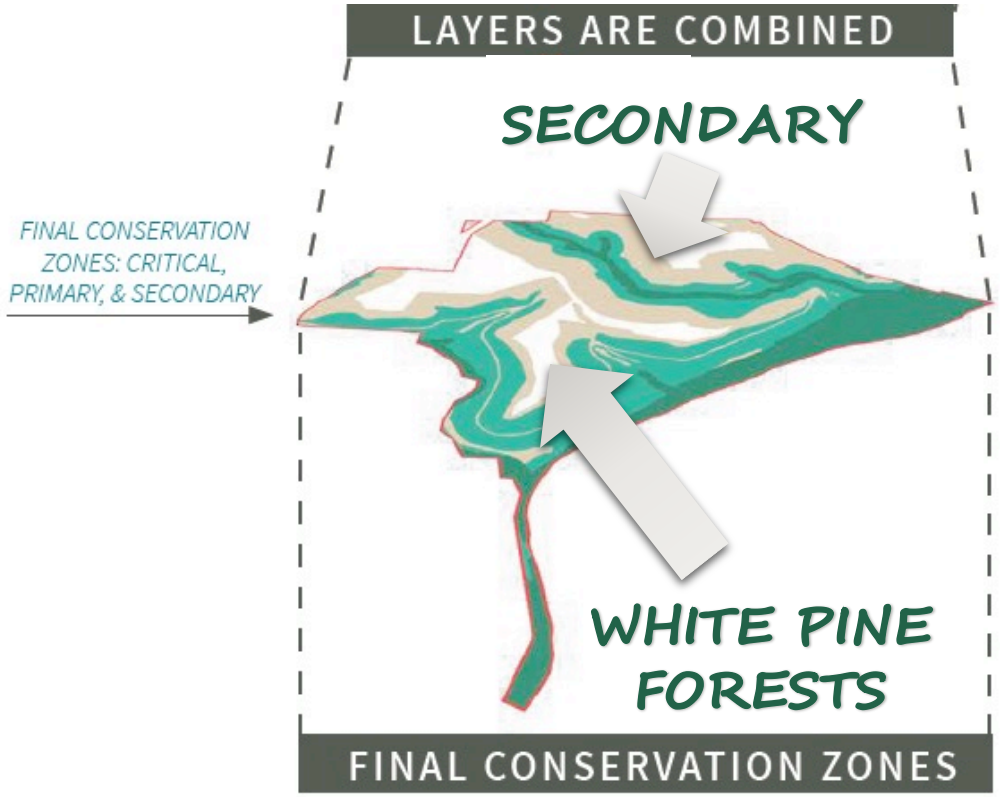
- **FEMA Floodway** [unbuildable]
- **Existing watercourses (buffered by 100 feet)** *[to protect water quality on-site and in the French Broad River]*
- **NWI Wetlands and others previously located on-site (buffered by 100 feet)** *[to enhance protection of these important features]*
- **Steep slopes (>25%)** *[to protect from landsliding and impacts to land surface and French Broad River; permit required and expensive geotech work for stability]*



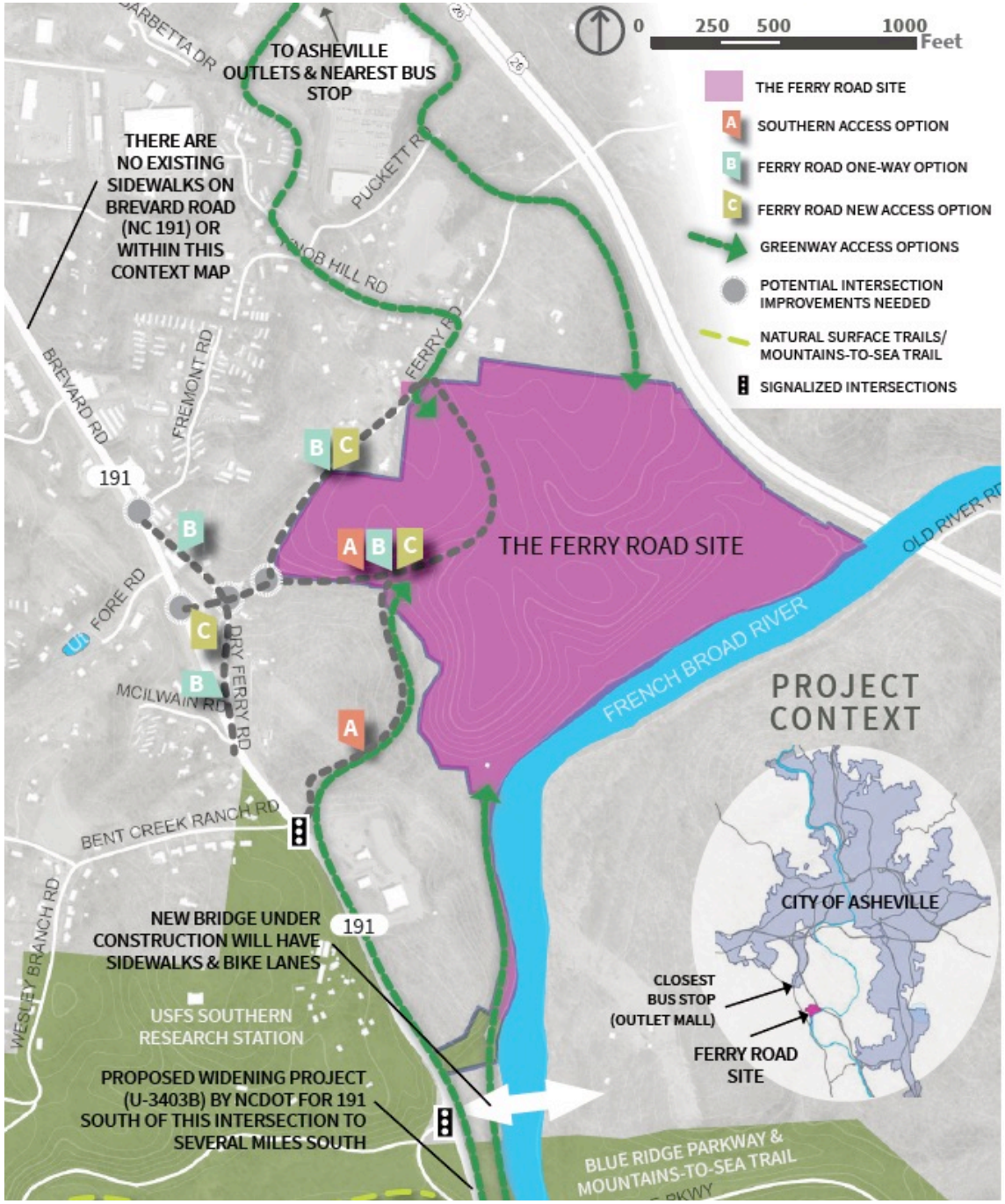
CONSERVATION ZONES

Secondary: The secondary conservation zones expand upon the primary zones and include other important, related conservation values that elevate the natural significance of the property but may or may not require agency consultation or permitting during future development. Data layers included in this zone are as follows:

- **FEMA 100-year Floodplain**
- **Existing watercourses** (buffered by 300 feet) *[increased buffer recognizes significance of drainageways relative to watercourses]*
- **NWI Wetlands and others previously located on-site** (buffered by 300 feet) *[same as above]*
- **Upland Natural Communities** (of moderate structure, intactness, and diversity) *[while not state/global significant, these are more intact that the remainder and reflect the natural history of the property]*
  - Dry Oak-Pine Forest
  - Oak-Hickory Forest
- **Moderate slopes** (15-20%)
- **NC Natural Heritage Program** (NCNHP) Biodiversity & Wildlife Habitat Analysis (BWHA): areas rated 7+ *[to protect landscape guild integrity and habitat]*



ACCESS SCENARIOS: OPPORTUNITIES & CONSTRAINTS

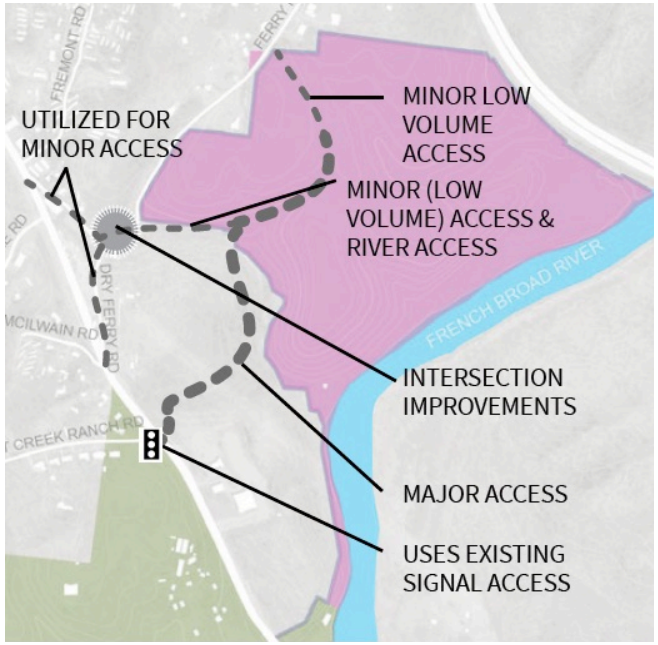


A SOUTHERN ACCESS OPTION

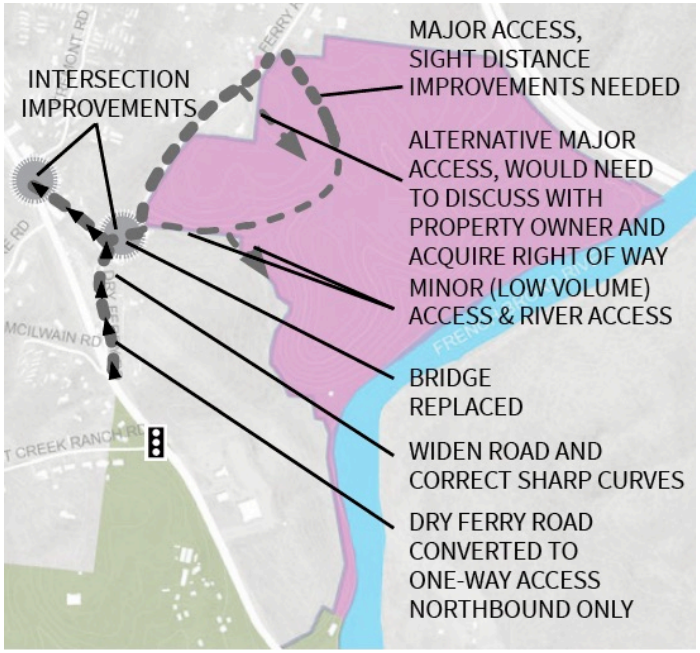
B FERRY ROAD ONE-WAY OPTION

C FERRY ROAD NEW ACCESS OPTION

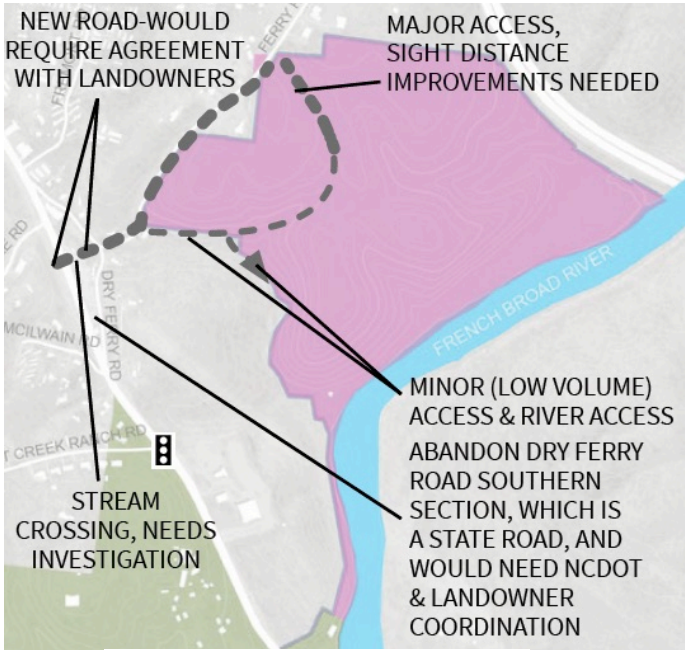
ACCESS SCENARIOS: OPPORTUNITIES & CONSTRAINTS



A SOUTHERN ACCESS OPTION



B FERRY ROAD ONE-WAY OPTION



C FERRY ROAD NEW ACCESS OPTION

Note: In all options coordination with NCDOT and some upgrades will be needed. Options are dependent on landowner support.

Defining Development Suitability on the Site

Protect High-Value Natural Resources Areas & Concentrate Impact in Lower-Value Areas

Avoiding the conservation zones as much as possible, as outlined in the previous chapter, is a major factor of site sustainability. Doing so will avoid major permitting costs and delays due to environmental impacts. Concentrate development in lower-value conservation areas, like the white pine forests on the ridge lines.

Avoid Steep Slopes & Concentrate Larger Building Footprints in Flatter Areas

Slopes above 25% should be avoided (due to cost and slope instability) and development on slopes from 15-25% should be designed in a way as to avoid mass grading.

Design Transportation Access with the Least Negative Impact Using Safe and Effective Multi-Modal Design

Transportation access to the site is a challenge, as the site does not sit on a major corridor, but just off Brevard Road (NC 19)1. Roads that lead to the site have a low carrying capacity, design speed, and line of sight. Improvements need to be made, but ideally are done with the support of adjacent landowners and with the least impact to the site. Suitability for multi-modal access (vehicle, transit, and pedestrian/bicycle) is a critical component of the suitability analysis.

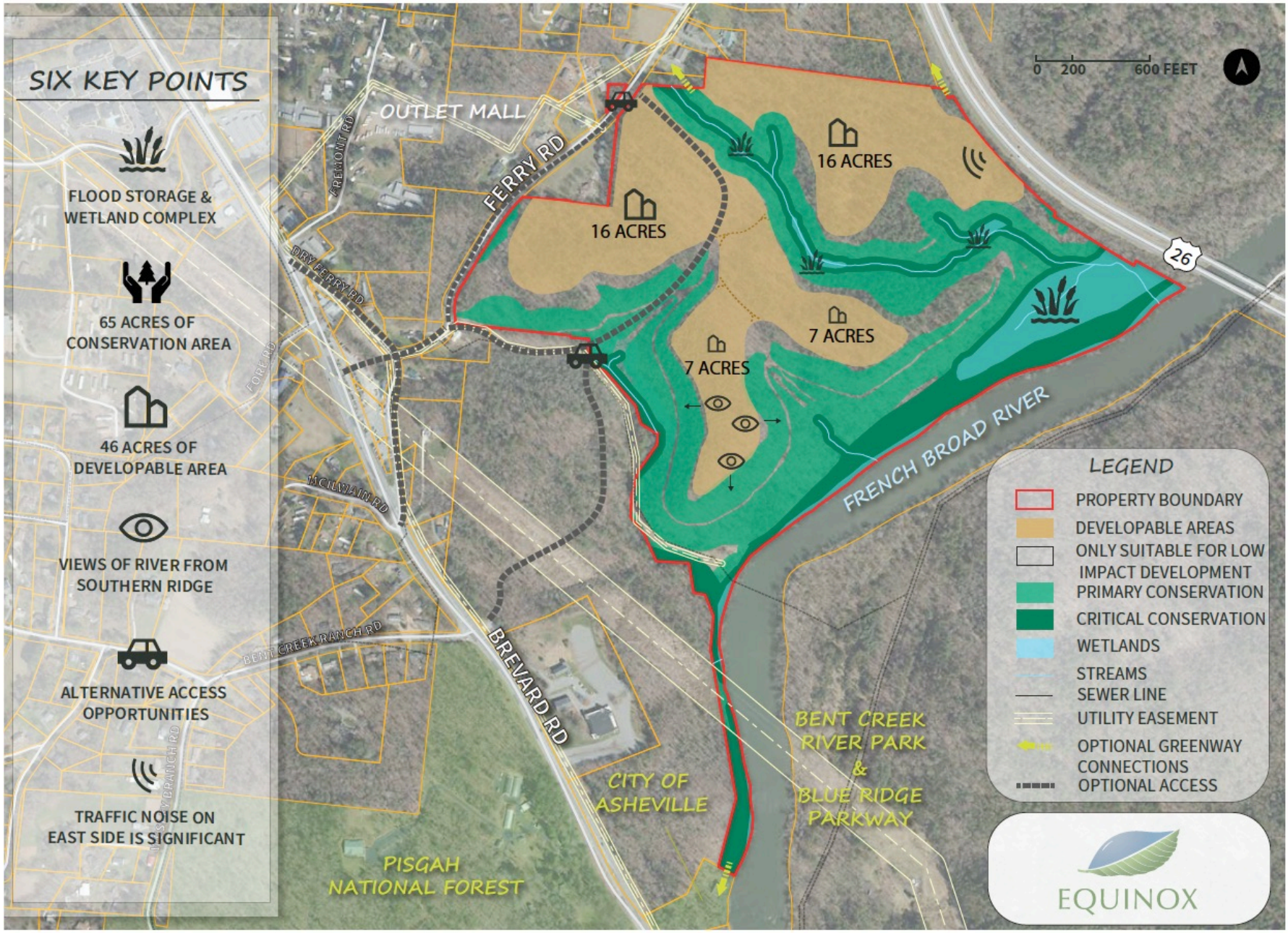
Proximity to Utilities

Utilities can be accessed fairly easily on the north and west side of the site. Costs will increase the further utilities need to be extended into the site.

Other Adverse Conditions

Noise from Interstate 26 is considerable on the east side of the property. While development may occur in this area, it is slightly less suitable.

DEVELOPMENT & CONSERVATION SUITABILITY ANALYSIS



Ferry Road Land Use Plan

INTRO TO THE SCENARIOS

SUSTAINABILITY

What could sustainability look like at Ferry Road?

Conservation of existing ecosystems

Site assessment, natural resource inventories and cluster development limit impact on existing ecosystems.

Ecosystem and habitat enhancement

The use of native plantings to create habitat, such as pollinator meadows and restoration of degraded landscapes.

Stormwater control / Green infrastructure

Preserving the natural hydrology of the site through stormwater volume control and treatment for water quality.

Carbon reduction/ sequestration

Tree plantings to store carbon in their trunks as they grow. Other recycled materials can reduce carbon use during construction.

Riparian buffers/ Water quality protection

Vegetated buffers along riparian edges protect the waterways from pollution, banks from erosion, and provides wildlife habitat.

Minimize footprints/Use of impervious surfaces

Impervious surfaces can lead to heat island effect and increased stormwater runoff, which impacts our waterways.

Low Maintenance/ Water conscious landscaping

Landscaping with reduced water consumption.

Integration of alternative energies

Solar energy , electric vehicle charging stations, passive solar, geothermal, etc.

The Five Scenarios

THE FIVE SCENARIOS BEING CONSIDERED ARE:

LOWER DENSITY

CONCEPT A
Low Density Community Scenario with a Recreational Emphasis

CONCEPT B
A Traditional Lower Density Housing Community

CONCEPT C
Small-scale Live-Work-Play Community

CONCEPT D
Large-scale Live-Work-Play Community

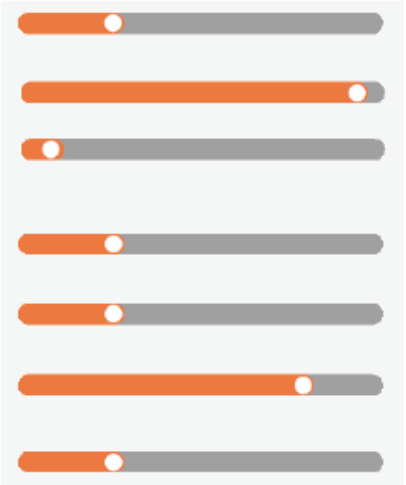
CONCEPT E
Small Commercial or Business Park

HIGHER DENSITY

Meeting the Vision & Goals

THERE WILL BE TRADE-OFFS FOR EACH SCENARIO & ALL GOALS AND METRICS MAY NOT BE ACHIEVABLE FOR EACH SCENARIO.

Each scenario will meet different goals and there will be trade-offs. For example a higher density scenario may make some of the sustainability metrics harder to achieve. The "sliding scale" shown to the right will indicate the level each scenario meets the goals.



THE METRICS SLIDING SCALE

CONCEPT A

Ferry Road Land Use Plan

CONCEPT A

CONCEPT A

" low density community scenario with a recreational emphasis"

THEME

This scenario explores a community centered around nature and recreation. Recreational opportunities could include a greenway trail systems/connections, boardwalk, river access, natural surface trails, woodland style parks, fishing piers, arboretums, etc. This recreation hub would serve residents and the greater public, as much of the open space and trails could be dedicated for public use. This scenario would inspire significant opportunities for local and regional partnerships and be a resource for community members. Some housing units and jobs creation could be included but is not the primary focus.

The primary benefit of this scenario is a community that celebrates the natural assets of the site.

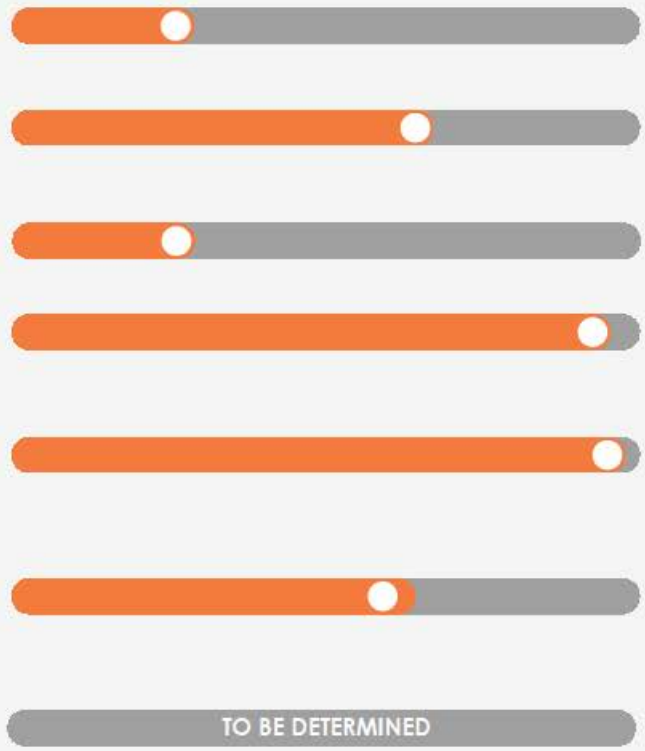
FEATURES

- ACCESS = Moderate transportation access improvements required
- HOUSING
  - SINGLE FAMILY = **50-70 units** of small-lot detached homes and granny flats in a cluster styled development
  - MISSING MIDDLE = **70-80 units** of multiplexes and townhomes
  - URBAN MULTIFAMILY = **170-230 units** of higher density multifamily
- COMMERCIAL / RETAIL / OFFICE = **60,000-90,000 SQ FT** of recreational focused retail, commercial, or specialized light industrial
- AFFORDABLE HOUSING = **60-80 units** (policy & count to be refined)
- JOB CREATION = **150-225 jobs** created
- OPEN SPACE = Including a greenway, nature educational opportunities, high quality trail systems, public village access, and boardwalk
- SUSTAINABILITY = Large amount of open space protected, less impervious impact

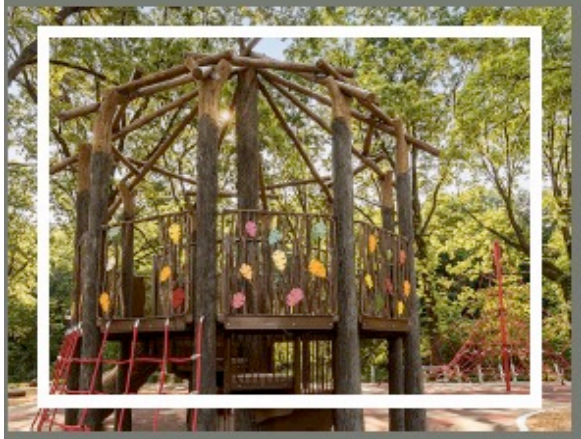
CONCEPT A

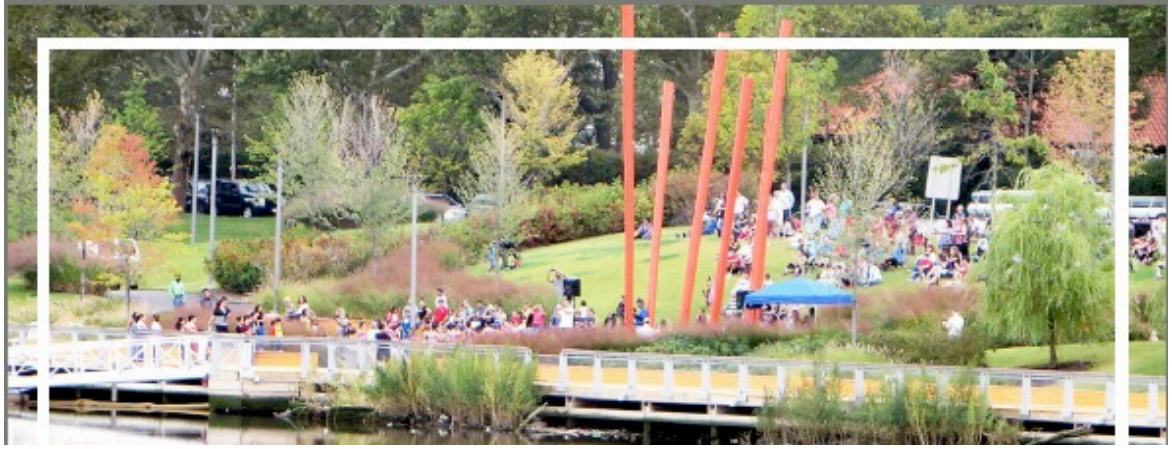
GOALS

- Aging in place community
- Affordable housing
- Increased workforce
- Model for sustainability
- Diverse recreation opportunities
- Equitable transportation access
- Opportunity for partnerships



CONCEPT A





Ferry Road Land Use Plan

Ferry Road Land Use Plan

CONCEPT B

Ferry Road Land Use Plan

CONCEPT B

CONCEPT B

" traditional lower density community center "

THEME

This scenario focuses on maximizing lower to mid-density housing opportunities including small-lot single family, accessory dwelling units, multiplexes, townhomes and walk-up apartments. A combination of ownership and rental properties would be provided, with a stronger emphasis on ownership. This neighborhood scenario would be accompanied by a small amount of stand-alone retail, distributed pocket parks, neighborhood-scaled amenities and trails, and a limited amount of destination recreation facilities. This scenario would not serve as a large regional destination, but rather a housing node focused primarily on neighborhood users.

The primary benefit of the Neighborhood Center is a relatively lower level of infrastructure and access investment.

FEATURES

- ACCESS = limited transportation improvements required
- HOUSING

  SINGLE FAMILY = **140-200 units** of small-lot detached homes and accessory structures, cluster style development

  MISSING MIDDLE = **140-180 units** of multiplexes and townhomes

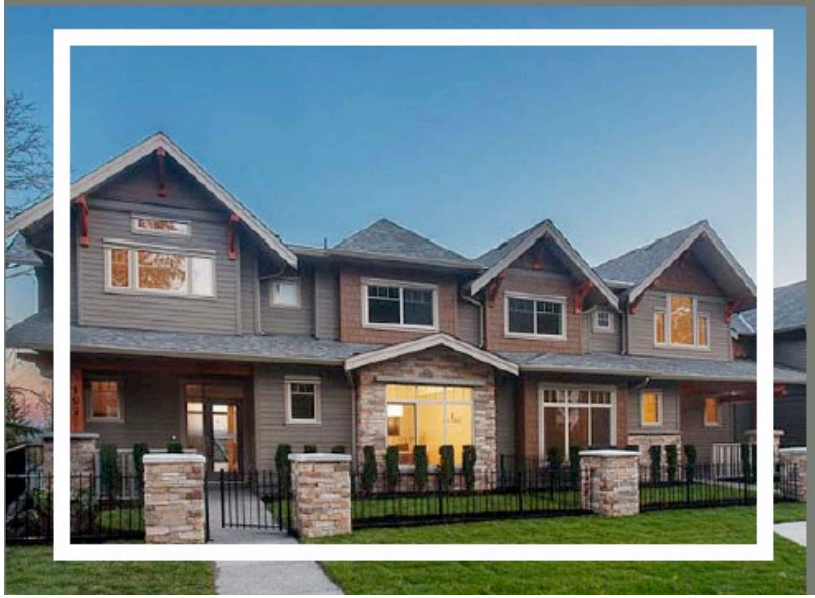
  URBAN MULTIFAMILY = **0 units** of higher density multifamily
- OWNERSHIP = Emphasis on property ownership with rental units available
- COMMERCIAL / RETAIL / OFFICE = **8,000-10,000 SQ FT** of small stand-alone neighborhood serving retail
- AFFORDABLE HOUSING = **60- 80 units** (policy & count to be refined)
- JOB CREATION = **30- 40 jobs** created
- OPEN SPACE = Including small distributed pocket parks, limited river access, greenway, natural surface trails, land large swaths of open space remain due to cluster development
- SUSTAINABILITY = Includes residential integrated sustainability like rain barrels, rain gardens, pollinator meadows, etc.

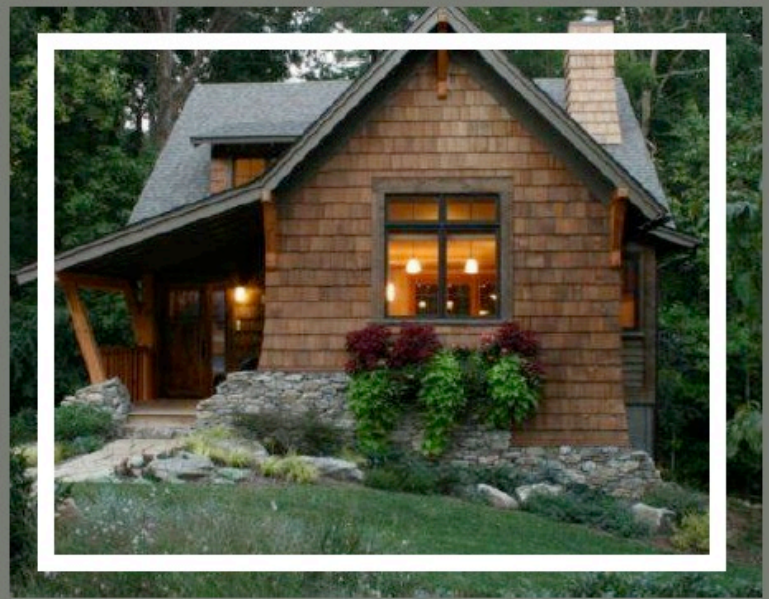
CONCEPT B

GOALS

- Aging in place community
- Affordable housing
- Increased workforce
- Model for sustainability
- Diverse recreation opportunities
- Equitable transportation access
- Opportunity for partnerships

CONCEPT B





CONCEPT B

Ferry Road Land Use Plan

CONCEPT B

Ferry Road Land Use Plan

CONCEPT C

Ferry Road Land Use Plan

CONCEPT C

" Small-scale, live-work-play community "

THEME

This scenario would create a balanced development focused on establishing a smaller-scale mixed use community. The Village Center would include a variety of housing types including low, medium, and to a lesser degree higher-density, a moderate amount of storefront and mixed-use retail, boutique office space, and a centralized mid-sized town green.

FEATURES

- ACCESS = Moderate to high transportation access improvements required
- HOUSING
  - SINGLE FAMILY = **100-130 units** of small-lot detached homes and granny flats
  - MISSING MIDDLE = **100-130 units** of duplexes and townhomes
  - URBAN MULTIFAMILY = **180-250 units** of medium density multifamily
- COMMERCIAL / RETAIL /OFFICE = **25,000- 40,000 SQ FT** of neighborhood-scaled retail
- AFFORDABLE HOUSING = **80-100 units** (policy &count to be refined
- JOB CREATION = **100-160 jobs** created
- OPEN SPACE = Including pocket parks, small centralized town green, a greenway, small river access, and moderate trails
- SUSTAINABILITY = Green infrastructure, integrated as an amenity, more suitable for a transit-oriented development

CONCEPT C

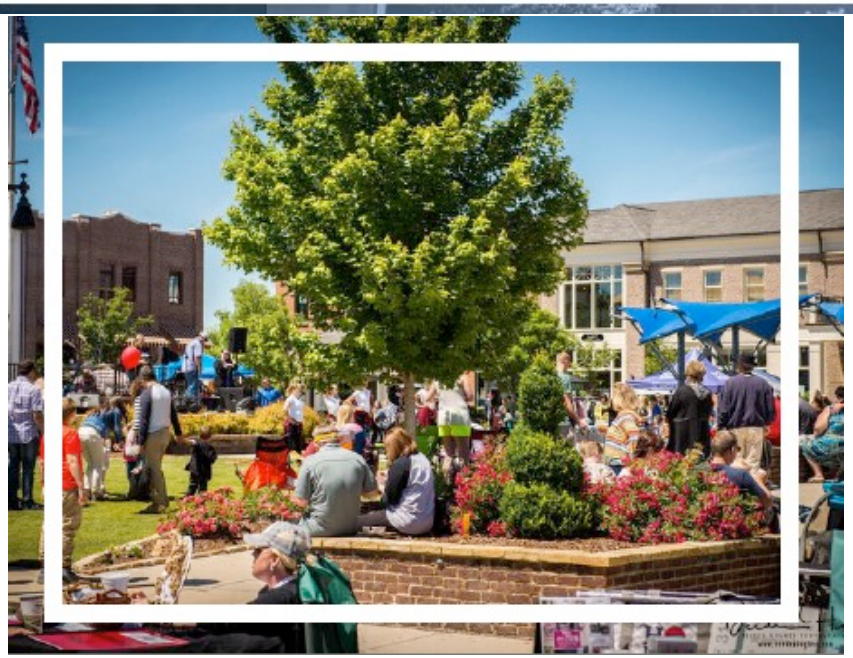
GOALS

- Aging in place community
- Affordable housing
- Increased workforce
- Model for sustainability
- Diverse recreation opportunities
- Equitable transportation access
- Opportunity for partnerships

CONCEPT C

Ferry Road Land Use Plan

CONCEPT C



Ferry Road Land Use Plan

CONCEPT C

Ferry Road Land Use Plan

CONCEPT D

Ferry Road Land Use Plan

CONCEPT D

" large scale, live-work-play community "

THEME

This scenario would create a balanced development focused on establishing a larger-scale mixed-use community. The Town Center would include a variety of housing types with a primary focus of moderate to high-density. This scenario would promote mixed-use development including integrated mixed-use retail and regional office space, resulting in a moderate level of job creation. A large town green would serve as the anchor with smaller pocket parks distributed throughout.

FEATURES

- ACCESS = Significant transportation access improvements required; TOD
- HOUSING
  - SINGLE FAMILY = **0 units** of small-lot detached homes
  - MISSING MIDDLE = **110-140 units** of duplexes and townhomes
  - MULTIFAMILY = **700-900 units** of higher density multifamily
- COMMERCIAL/ RETAIL/ OFFICE = **60,000-90,000 SQ FT** of local and destination retail
- AFFORDABLE HOUSING = **160-200 units** (policy& count to be refined)
- JOB CREATION = **240-360 jobs** created
- OPEN SPACE = Including pocket parks, greenway, small river access
- SUSTAINABILITY = Green infrastructure (cisterns, green streets, etc) subsurface storage, more suitable for a transit-oriented development

CONCEPT D

GOALS

- Aging in place community
- Affordable housing
- Increased workforce
- Model for sustainability
- Diverse recreation opportunities
- Equitable transportation access
- Opportunity for partnerships

CONCEPT D

Ferry Road Land Use Plan

CONCEPT D

Ferry Road Land Use Plan

CONCEPT E

Ferry Road Land Use Plan

CONCEPT E

CONCEPT E

" small commercial or business park "

THEME

This scenario focuses on creating job opportunities including general office space and specialized light industry. Increased jobs opportunities would support medium to high-density apartments primarily focused on renting over ownership. This scenario would be supported by primarily external users requiring a higher level of site access improvements.

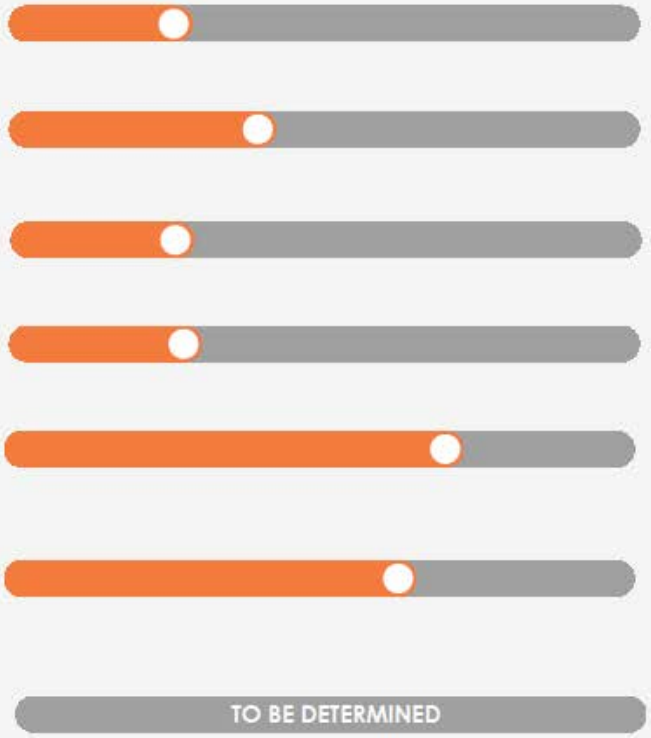
FEATURES

- ACCESS = Signification transportation access improvements required
- HOUSING
  - SINGLE FAMILY = **0 units** of small-lot detached home and accessory units
  - MISSING MIDDLE = **80-100 units** of multiplexes and townhomes
  - URBAN MULTIFAMILY = **0 units** of higher density multifamily
- COMMERCIAL / RETAIL / OFFICE = **12,000-15,000 SQ FT** of retail/commercial space
- SPECIALIZED INDUSTRIAL = **100-160K SQ FT** specialized flex/ light industrial major
  50-85K SQ FT specialized flex/light industrial minor
- AFFORDABLE HOUSING = **15-20 units** (policy & count to be refined)
- JOB CREATION = **350-500 jobs** created
- OPEN SPACE = Including trails, a greenway, river access, and commercial/ office plazas

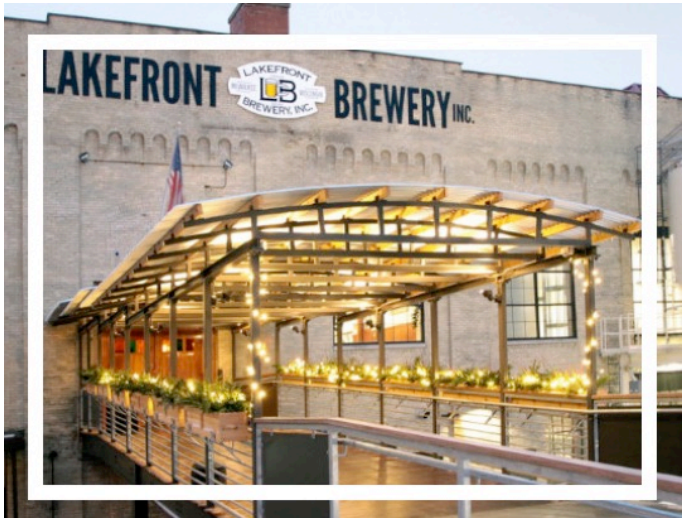
CONCEPT E

GOALS

- Aging in place community
- Affordable housing
- Increased workforce
- Model for sustainability
- Diverse recreation opportunities
- Equitable transportation access
- Opportunity for partnerships

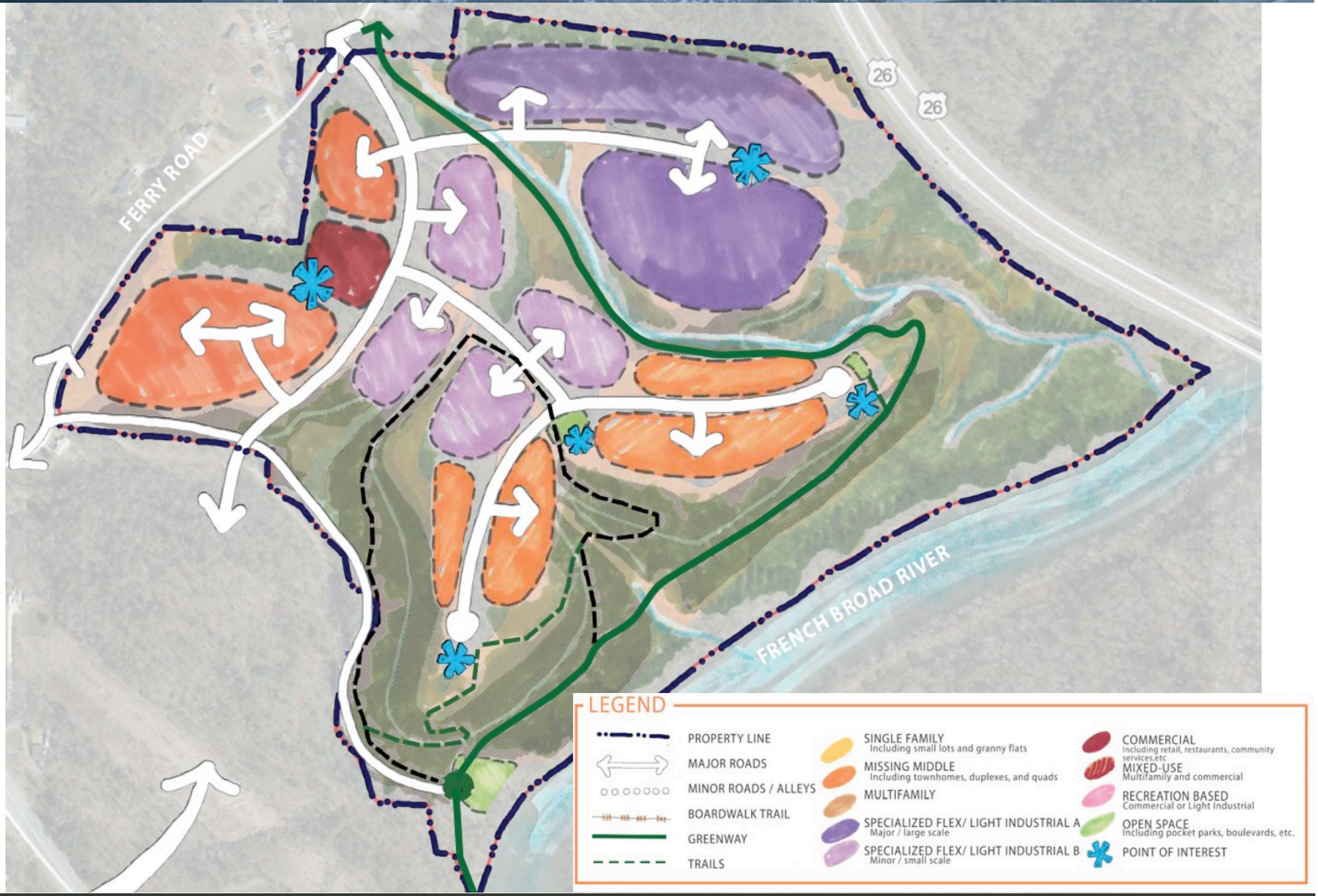


CONCEPT E



Ferry Road Land Use Plan

CONCEPT E



Ferry Road Land Use Plan

SIDE BY SIDE COMPARISON

LAND USE	CONCEPT A	CONCEPT B	CONCEPT C	CONCEPT D	CONCEPT E
SINGLE FAMILY	50-70 UNITS	140-200 UNITS	100-130 UNITS	N / A	N / A
MISSING MIDDLE	70-80 UNITS	140-180 UNITS	100-130 UNITS	110-140 UNITS	80-100 UNITS
MULTI FAMILY	170-230 UNITS	N / A	180-250 UNITS	700-900 UNITS	N / A
RETAIL / COMMERCIAL	60,000-90,000 SQ FT REC BASED	8,000-10,000 SQ FT	25,000-40,000 SQ FT	60,000-90,000 SQ FT	12,000-15,000 SQ FT

SIDE BY SIDE COMPARISON

LAND USE	CONCEPT A	CONCEPT B	CONCEPT C	CONCEPT D	CONCEPT E
SPECIALIZED FLEX/LIGHT INDUSTRIAL	N / A	N / A	N / A	N / A	MAJOR 100-160K SQ FT MINOR 50-85K SQ FT
OPEN SPACE	2 ACRES	2 ACRES	2 ACRES	3 ACRES	1 ACRE
OPEN SPACE % OF TOTAL PROPERTY	65%	36%	40%	45%	47%
AFFORDABLE HOUSING	60-80 UNITS	60-80 UNITS	80-100 UNITS	160-220 UNITS	15-20 UNITS
JOB CREATION	150-225 JOBS	30-40 JOBS	100-160 JOBS	240-360 JOBS	350-500 JOBS

Questions?

Ferry Road Land Use Plan

Discussion & Next Steps...

What are your top three preferred scenarios?

What are your top three preferred scenarios?

Next Steps...

Phase 2: Site Development Scenarios

- Client & Key Stakeholder Work Sessions & Advocacy/Board Work Session
- Public Input/Launch of Project Web Page
- Site Development Scenarios
- Leadership Team and Key Stakeholder Work Session #2
- Community Input on Site Development Package
- Community Engagement-Involving the Community Summary

Phase 3: Plan Revisions

- Final Leadership Team Meeting
- Development of Final Plan

Ferry Road Update

Property Analysis – Phase 1 Review

September 21, 2021

Background and Request

Background:

- On March 2, 2021, Buncombe County Commissioners approved the Ferry Road Property Analysis contract.
- This contract was awarded to Equinox and includes analysis of environmental impacts, transportation infrastructure and potential mixed-use development scenarios.
- As discussed, staff are bringing the results of Phase 1 of the study to the Board of Commissioners for input, as well as authorization to proceed with Phases 2 and 3.

Request for Board Action:

- Authorize staff and Equinox to proceed with Phases 2 and 3.

Vision and Goals

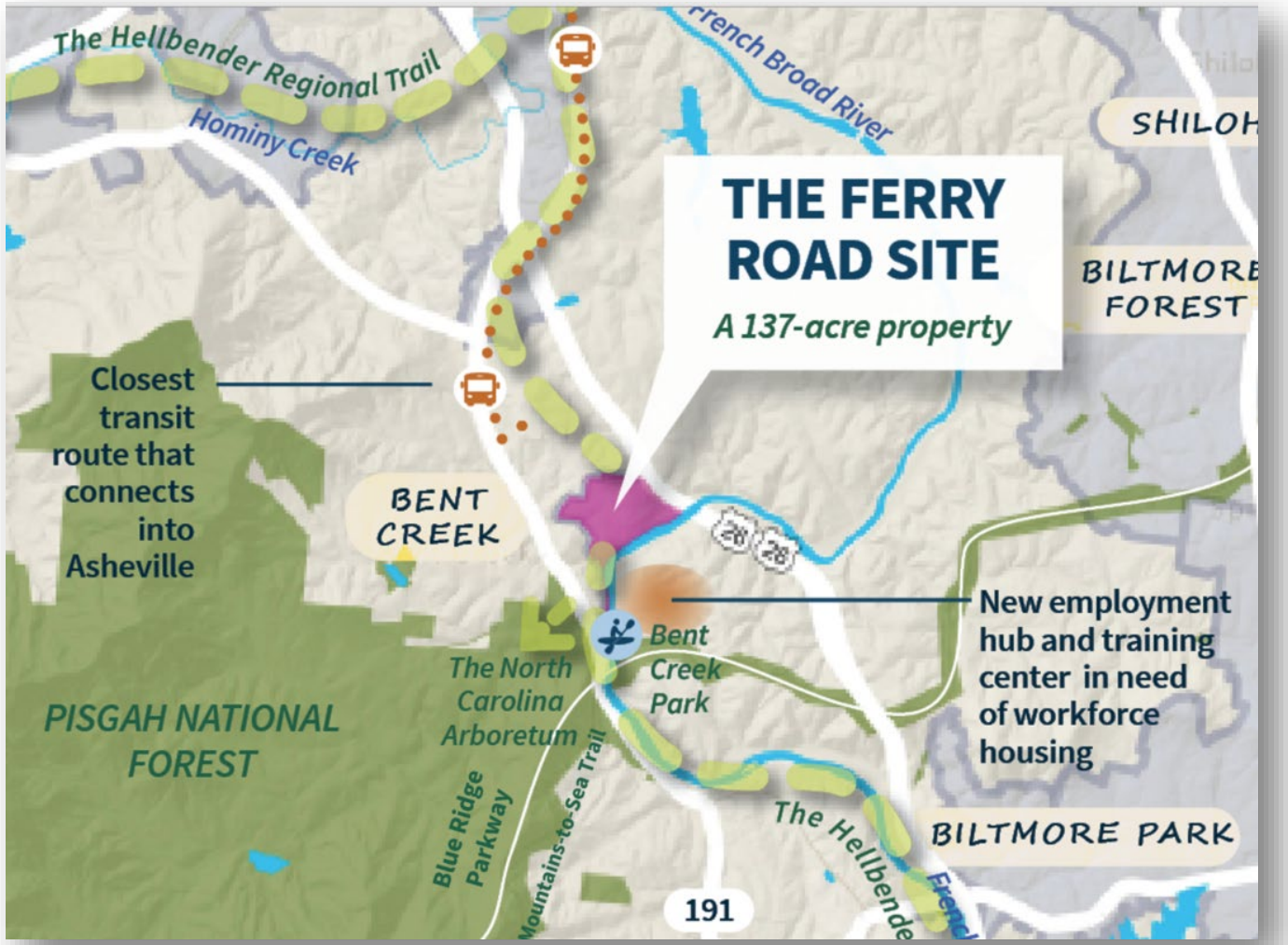
Vision

The site will be home to an inclusive and affordable live, work, and play community which is surrounded and inspired by nature, has thoughtful connectivity and equitable access to transportation, has diverse recreational opportunities for health and wellness, and is a contributor to a vibrant economy by supporting industries that pay living wages.

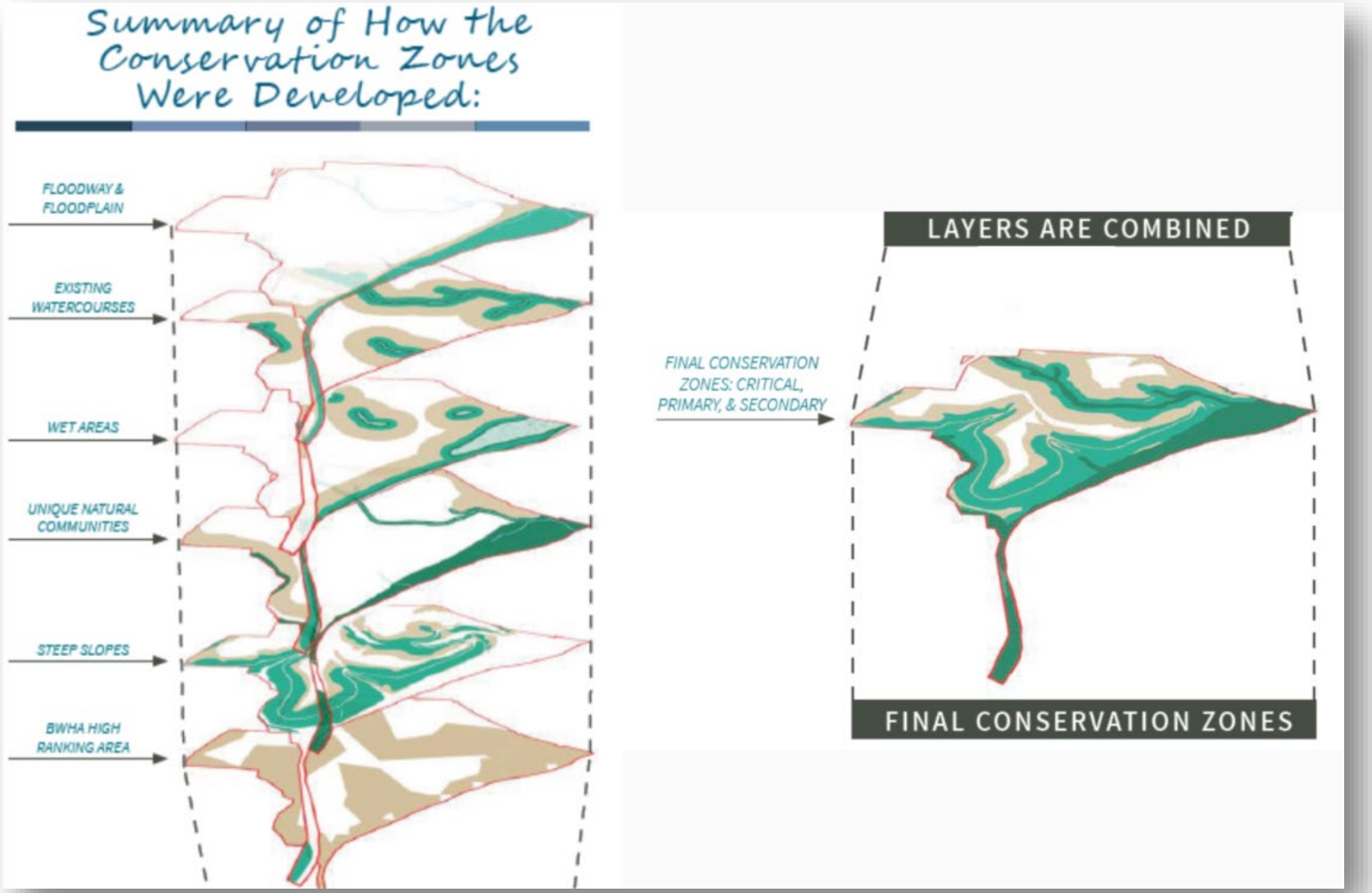
Goals

- Host a diverse live-work-play and "aging in place" community.
- Increase a well-paid, living wage, work force by hosting commercial or specialized manufacturing employers.
- Be a hub and connector for diverse recreation opportunities.
- Provide inclusive & affordable housing.
- Be a model for sustainability & stewardship.
- Provide equitable transportation access and prioritize pedestrians and bicyclists..
- Inspire Opportunity for Partnerships

Site Location and Context



Environmental Assessment



Development/Conservation Suitability Analysis

THE FIVE SCENARIOS BEING CONSIDERED ARE:

LOWER DENSITY

HIGHER DENSITY

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Low Density Community Scenario with a Recreational Emphasis

CONCEPT B
A Traditional Lower Density Housing Community

CONCEPT C
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Large-scale Live-Work-Play Community

CONCEPT E
Small Commercial or Business Park

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CONCEPT E
Small Commercial or Business Park

Commissioner Discussion

- **Input from the Commissioner Briefing on 9/7:**
  - Need for balance on the site.
  - Support for “missing middle” housing (e.g., duplexes, townhomes).
  - Make a significant contribution to the affordable housing crisis.
  - Create opportunities for affordable home ownership.

- **Scenario Focus:**
  - Open Discussion

Next Steps and Request

Next Steps:

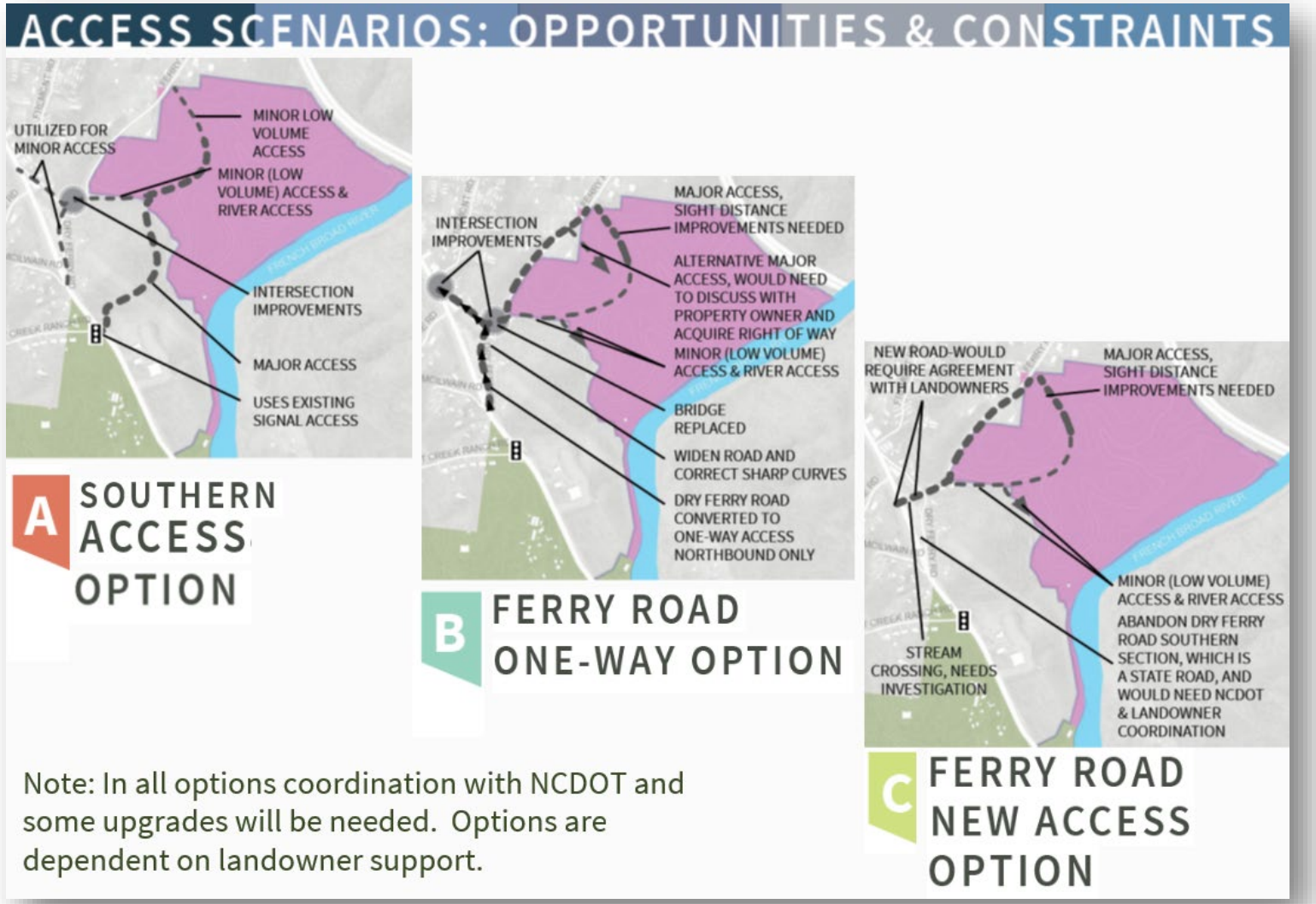
- **Phase 2 and 3:**
  - **Price:** $90,000 (already budgeted)
  - **Key Deliverables:** Public input process and community engagement documentation, site development scenarios, final site assessment/planning documents.

Request for Board Action:

- Authorize staff and Equinox to proceed with Phases 2 and 3.

Appendix

Transportation Infrastructure



Sustainability

What could sustainability look like at Ferry Road?

Conservation of existing ecosystems
Site assessment, natural resource inventories and cluster development limit impact on existing ecosystems.

Ecosystem and habitat enhancement
The use of native plantings to create habitat, such as pollinator meadows and restoration of degraded landscapes.

Stormwater control / Green infrastructure
Preserving the natural hydrology of the site through stormwater volume control and treatment for water quality.

Carbon reduction/ sequestration
Tree plantings to store carbon in their trunks as they grow. Other recycled materials can reduce carbon use during construction.

Riparian buffers/ Water quality protection
Vegetated buffers along riparian edges protect the waterways from pollution, banks from erosion, and provides wildlife habitat.

Minimize footprints/Use of impervious surfaces
Impervious surfaces can lead to heat island effect and increased stormwater runoff, which impacts our waterways.

Low Maintenance/ Water conscious landscaping
Landscaping with reduced water consumption.

Integration of alternative energies
Solar energy , electric vehicle charging stations, passive solar, geothermal, etc.

PROJECT APPROACH: PHASE 1 (2-3 MONTHS)

PROJECT TEAM

EQUINOX · LORD AECK SARGENT · Est. 1989 TPD Traffic Planning and Design, Inc. · wood.

PHASE 1

BACKGROUND & BASELINE SITE ASSESSMENT

KICK OFF MEETING W/ LEADERSHIP TEAM
Early vision and goal setting

SITE ANALYSIS & NATURAL RESOURCE ASSESSMENT
Areas to conserve & enhance

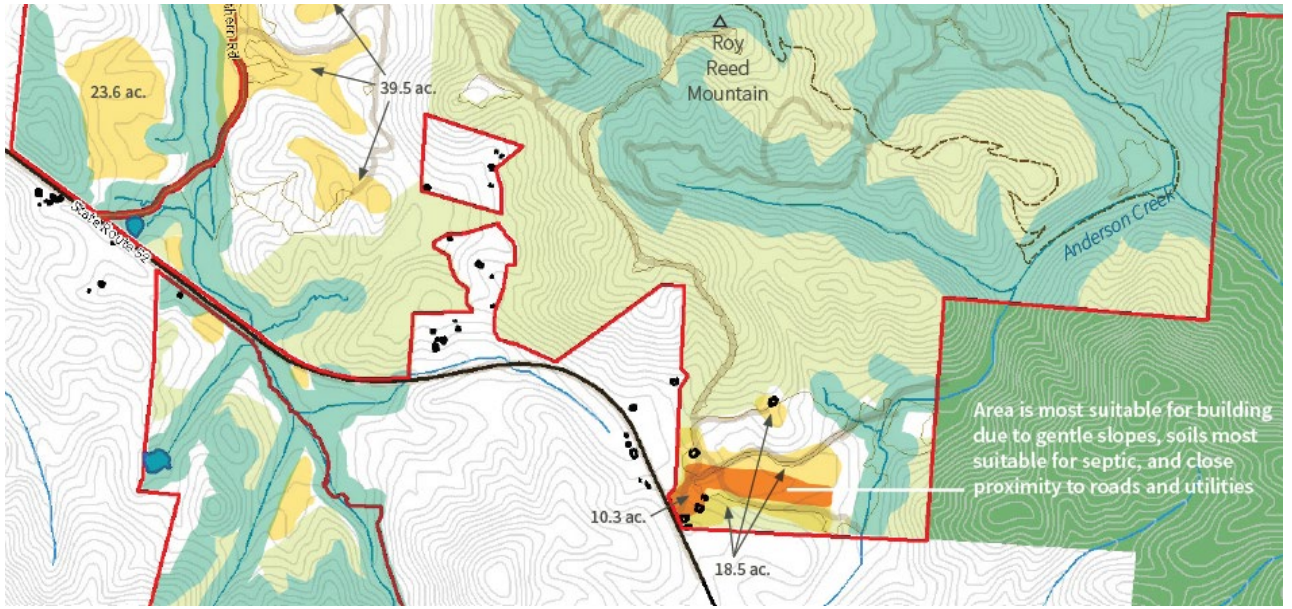
TRANSPORTATION ACCESS ASSESSMENT
Options for transportation access to the site

SUITABILITY PLAN
Opportunities & constraints for conservation, development, & recreation

DEVELOPMENT & SUSTAINABILITY FRAMEWORK DIAGRAMS
4-6 high-level concept sketches that convey overall land use (housing, commercial,etc) , open space and recreation, conservation, transportation, etc.

INFORMATION PACKAGE FOR COUNTY COMMISSIONER'S WORK SESSION/ MANAGER'S ADVISORY GROUP
Presentation of Phase 1 findings and the Development & Sustainability Framework Diagrams, input on preferred 3 frameworks

MAJOR CHECKPOINT: DECISION TO MOVE FORWARD



Buildable Areas
- Most Suitable for Buildings/Development
- Suitable for Buildings/Development
- Areas with Lower Conservation Value, but More Difficult to Develop

Conservation Zones
- Primary Zone
- Secondary Zone

PROJECT APPROACH: PHASES 2 & 3

PHASE 2 SITE DEVELOPMENT SCENARIOS

LEADERSHIP TEAM & STAKEHOLDER WORKSHOPS

Vetting vision and goals, review Phase 1 findings, input on Development & Sustainability Framework Diagrams, input on preferred 3 frameworks

-Leadership Team and Key Stakeholder Virtual Work Session-
-Advocacy & Board Virtual Work Session-

PUBLIC SURVEY & INFO ON DEVELOPMENT & SUSTAINABILITY FRAMEWORK DIAGRAMS LAUNCHED

SITE DEVELOPMENT SCENARIOS

Top three frameworks decided on based on all input and feedback given up to this stage. Development Scenarios will include:

3 Conceptual Site Development Options-low, medium, & high intensity development scenarios

All scenarios are assumed to include some component of affordable housing, open space/recreation, and sustainability principles

- Conceptual illustrative site plans
- Massing & scale diagrams
- Development program (types of uses, mix of use, and density calculations
- Comparison matrix showing relative strengths and weakness of each scenario

LEADERSHIP TEAM INPUT SESSION

-REVISIONS AS NEEDED-

PUBLIC INPUT

PHASE 1: PROJECT WEBPAGE

Early info hosted on county's website, (scope, schedule, ways for public to engage etc.)

PHASE 2: PUBLIC INPUT (SURVEY & WEBSITE UPDATE)

Larger project page launched, information provided on Framework Diagrams, survey launched for public input on diagrams

PHASE 2: PUBLIC INPUT ON DEVELOPMENT SCENARIOS

Short video explaining scenarios developed, small informational package for download, survey for input and comments on scenarios, info on next steps

PHASE 3 PLAN REVISIONS

FINAL LEADERSHIP TEAM MEETING

Decisions and discussion on implementation recommendations, phasing, public/private investment, potential range of cost

PRESENTATION TO COUNTY COMMISSIONERS

FINAL PLAN DEVELOPED, FEEBACK INCORPORATED

Final plan posted on public project page

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

New Business

Department: Planning & Development, Community Development Division

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

Subject: Resolution Replacing the Substance Abuse Policy for Mountain Mobility with the Drug and Alcohol Testing Policy for Mountain Mobility, Buncombe County's Community Transportation System

Brief Summary:

Buncombe County must adopt a Drug and Alcohol Testing Policy for Mountain Mobility compliant with all applicable federal regulations governing and requiring anti-drug and alcohol misuse programs in the workplace, including 49 CFR Parts 40 and 655, as amended. The Drug and Alcohol Testing Policy is proposed to replace the Substance Abuse Policy for Mountain Mobility originally adopted November 21, 1995 and most recently amended on October 6, 2020.

On April 14, 2021, the NCDOT Integrated Mobility Division (IMD), provided an updated Drug and Alcohol Testing Policy template for use by Community Transportation Systems in North Carolina. Buncombe County was the subject of a System Safety Plan (SSP) Compliance Review beginning April 19, 2021 and for which all existing policies had been provided. Based on the timing of the template release, and upon review of the existing Substance Abuse Policy in light of the new NCDOT IMD template, NCDOT indicated the adoption of the NCDOT IMD Drug and Alcohol Testing Policy template would ensure compliance. Buncombe County staff used the template to develop a Drug and Alcohol Testing Policy for Mountain Mobility.

Staff request the Board of Commissioners formally resolve to adopt the Drug and Alcohol Testing Policy for Mountain Mobility to replace the existing Substance Abuse Policy for Mountain Mobility in order to remain compliant with federal regulations.

Recommended Motion & Requested Action:

Adopt the Resolution Replacing the Existing Substance Abuse Policy for Mountain Mobility with the Drug and Alcohol Testing Policy for Mountain Mobility, to remain compliant with NCDOT requirements and federal regulations.

County Manager's Comments and Recommendation:

Adopt the resolution as recommended.

RESOLUTION NO.21-09-22

RESOLUTION REPLACING THE SUBSTANCE ABUSE POLICY FOR MOUNTAIN MOBILITY WITH THE DRUG AND ALCOHOL TESTING POLICY FOR MOUNTAIN MOBILITY

WHEREAS, the County of Buncombe is entrusted with the health and safety of its citizens and is dedicated to providing safe, effective, transportation services for citizens through Mountain Mobility, Buncombe County's Community Transportation System; and

WHEREAS, in keeping with this obligation and as a recipient of federal and state funds under the Federal Transit Act, as amended, the County of Buncombe must adopt a drug and alcohol testing policy that complies with all applicable federal regulations governing and requiring anti-drug and alcohol misuse programs in the workplace, including 49 CFR Parts 40 and 655, as amended, as well as 49 CFR Part 29 relating to the Drug-Free Workplace Act of 1988; and

WHEREAS, Buncombe County adopted a Substance Abuse Policy by Resolution 95-11-11 dated November 21, 1995, and has updated it as needed or required in order to comply with federal regulations; and

WHEREAS, the North Carolina Department of Transportation Integrated Mobility Division requires transit systems to revise policies to ensure compliance at the local level; and

WHEREAS, the North Carolina Department of Transportation Integrated Mobility Division provided a Drug and Alcohol Testing Policy template to replace existing Substance Abuse Policies; and

WHEREAS, the Board of Commissioners supports the formal adoption of this Drug and Alcohol Testing Policy for Mountain Mobility to replace the existing Substance Abuse Policy to assure worker fitness and to protect employees and the public from the risks posed by the use of prohibited drugs and the misuse of alcohol.

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

(1) That the Board of Commissioners hereby replaces its Substance Abuse Policy for Mountain Mobility with its adoption of a Drug and Alcohol Testing Policy for Mountain Mobility.

(2) That the provisions of Buncombe County's Drug and Alcohol Testing Policy for Mountain Mobility shall incorporate all rules and regulations that are required by the Federal Transit Administration on the prevention of alcohol misuse and prohibited drug use in transit operations, including those presently in effect or as is or may become effective in the future, whether or not said rules and regulations are expressly set forth in the policy.

(3) That the Chairman be and he is hereby authorized to execute other documents as may be necessary to verify the adoption, amendment, and/or implementation of the policy.

(4) That this Resolution shall be effective upon its adoption.

Adopted this 21st day of September, 2021.

ATTEST:

Lamar Joyner, Clerk to the Board

BUNCOMBE COUNTY BOARD OF COMMISSIONERS

By: Brownie Newman, Chairman

APPROVED AS TO FORM:

County Attorney

DRAFT

Mountain Mobility Drug and Alcohol Testing Policy

Adopted: September 21, 2021

DRUG AND ALCOHOL TESTING POLICY
MOUNTAIN MOBILITY

Adopted as of September 21, 2021

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A. PURPOSE

1) Buncombe County, through its Community Transportation System, Mountain Mobility, provides public transit and paratransit services for the residents of Buncombe County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and *alcohol*-free work environment, and to ensure that the workplace remains free from the effects of drugs and *alcohol* in order to promote the health and safety of employees and the general public. In keeping with this mission, Buncombe County declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of *alcohol* is prohibited for all Mountain Mobility employees.

2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and *alcohol*-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and *alcohol* programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath *alcohol* testing for safety-sensitive positions, and prohibits performance of *safety-sensitive functions* when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

3) Any provisions set forth in this policy that are included under the sole authority of Mountain Mobility and <u>are not</u> provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of Mountain Mobility will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when *performing* safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A *safety-sensitive function* is operation of public transit service including the operation of a *revenue service vehicle* (whether or not the *vehicle* is in revenue service), maintenance of a *revenue service vehicle* or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of *revenue service vehicles* and any transit employee who operates a non-*revenue service vehicle* that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, *vehicles* and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if

they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Attachment C includes definitions specific to the Mountain Mobility Drug and Alcohol Policy. All defined terms words are italicized throughout the Mountain Mobility Drug and Alcohol Policy.

D. EDUCATION AND TRAINING

1) Every *covered employee* will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all *covered employee*s will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate *prohibited drug* use.

2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable *alcohol* misuse.

E. PROHIBITED SUBSTANCES

1) Prohibited substances addressed by this policy include the following.

    a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, *covered employees* may be tested for these drugs anytime that they are on duty.

b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Mountain Mobility supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her *safety-sensitive functions*.

c. *Alcohol*: The use of beverages containing *alcohol* (including mouthwash, medication, food, candy) or any other substances containing *alcohol* in a manner which violates the conduct listed in this policy is prohibited.

F. PROHIBITED CONDUCT

1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All *covered employees* are prohibited from reporting for duty or remaining on duty if they have used a *prohibited drug* as defined in 49 CFR Part 40, as amended.

2) Each *covered employee* is prohibited from consuming *alcohol* while *performing* safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed *alcohol*, they must acknowledge the use of *alcohol* at the time that they are called to report for duty. The *covered employee* will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

3) The Transit Department shall not permit any *covered employee* to perform or continue to perform *safety-sensitive functions* if it has actual knowledge that the employee is using *alcohol*

4) Each *covered employee* is prohibited from reporting to work or remaining on duty requiring the performance of *safety-sensitive functions* while having an *alcohol concentration* of 0.04 or greater regardless of when the *alcohol* was consumed.

    a. An employee with a breath *alcohol concentration* which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and *alcohol* regulations, provided the employee hasn't consumed the *alcohol* within four (4) hours of *performing* a safety-sensitive duty. However, if a safety-sensitive employee has a breath *alcohol concentration* of 0.02-0.039,

USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:

i. The employee's *alcohol concentration* measures less than 0.02; or

ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

5) No *covered employee* shall consume *alcohol* for eight (8) hours following involvement in an *accident* or until he/she submits to the post-*accident* drug/*alcohol* test, whichever occurs first.

6) No *covered employee* shall consume *alcohol* within four (4) hours prior to the performance of safety-sensitive job functions.

7) Mountain Mobility, under its own authority, also prohibits the consumption of *alcohol* at all times the employee is on duty, or anytime the employee is in uniform.

8) Consistent with the Drug-free Workplace Act of 1988, all Mountain Mobility employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit *vehicles*.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify Mountain Mobility management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

H. TESTING REQUIREMENTS

1) Analytical urine drug testing and breath testing for *alcohol* will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to *performing* safety-sensitive duty, for reasonable suspicion, following an *accident*, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.

2) A drug test can be performed any time a *covered employee* is on duty. A reasonable suspicion, random, or follow-up *alcohol* test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Mountain Mobility authority, a non-DOT *alcohol* test can be performed any time a *covered employee* is on duty.

3) All *covered employees* will be subject to urine drug testing and breath *alcohol* testing as a condition of ongoing employment with Mountain Mobility. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and *laboratory* facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the *split specimen collection* method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a *DOT* Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified *laboratory*. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

3) The test results from the HHS certified *laboratory* will be reported to a *Medical Review Officer*. A *Medical Review Officer (MRO)* is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative *laboratory* result, and provide the employee with an opportunity to explain the confirmed *laboratory* test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative *laboratory* result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Mountain Mobility. If a legitimate explanation is found, the MRO will report the test result as negative.

4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an *invalid result*.

5) Any *covered employee* who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted

at a second HHS-certified *laboratory*. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the *Medical Review Officer* within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Mountain Mobility will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Mountain Mobility will seek reimbursement for the split sample test from the employee.

6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.

7) The split specimen will be stored at the initial *laboratory* until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the *Medical Review Officer*, or by the employer, by the MRO, or by the relevant *DOT agency*.

8) Observed Collections

    a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

        i. The *laboratory* reports to the MRO that a specimen is invalid, and the MRO reports to Mountain Mobility that there was not an adequate medical explanation for the result;

        ii. The MRO reports to Mountain Mobility that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;

        iii. The *laboratory* reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

v. The temperature on the original specimen was out of range;

vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.

vii. All follow-up-tests; or

viii. All return-to-duty tests

J. ALCOHOL TESTING PROCEDURES

1) Tests for breath *alcohol concentration* will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". *Alcohol* screening tests may be performed using a non-evidential testing device (*alcohol* screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an *alcohol concentration* of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved *alcohol* testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the *alcohol* testing procedures and validity of the test result.

2) A confirmed *alcohol concentration* of 0.04 or greater will be considered a positive *alcohol* test and in violation of this policy. The consequences of a positive *alcohol* test are described in Section Q. of this policy. Even though an employee who has a confirmed *alcohol concentration* of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An *alcohol concentration* of less than 0.02 will be considered a negative test.

3) Mountain Mobility affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

4) The *alcohol* testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a *safety-sensitive function*.

    a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform *safety-sensitive functions* unless the applicant takes a drug test with verified *negative results*.

    b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified *negative results*.

    c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

    d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified *positive result*, the employee shall be subject to disciplinary action in accordance with Section Q herein.

    e. If a pre-employment test is canceled, Mountain Mobility will require the applicant to take and pass another pre-employment drug test.

    f. In instances where a FTA *covered employee* does not perform a *safety-sensitive function* for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49

CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

g. Following a *negative dilute* the employee will be required to undergo another test. Should this second test result in a *negative dilute* result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

h. Applicants are required (even if ultimately not hired) to provide Mountain Mobility with signed written releases requesting USDOT drug and *alcohol* records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Mountain Mobility is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Mountain Mobility proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

1) All Mountain Mobility FTA *covered employees* will be subject to a reasonable suspicion drug and/or *alcohol* test when the employer has reasonable suspicion to believe that the *covered employee* has used a *prohibited drug* and/or engaged in *alcohol* misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or *alcohol* misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and *alcohol* use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or *alcohol* misuse. A reasonable suspicion *alcohol* test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. <u>However, under Mountain Mobility's authority, a non-DOT reasonable suspicion *alcohol* test may be performed any time the *covered employee* is on duty.</u> A reasonable suspicion drug test can be performed any time the *covered employee* is on duty.

2) <u>Mountain Mobility shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action</u>

described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/*alcohol* test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.

3) A written record of the observations which led to a drug/*alcohol* test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to Mountain Mobility.

4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or *alcohol* use, but the employee (who is not already a participant in a treatment program) admits the abuse of *alcohol* or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. Mountain Mobility shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of Mountain Mobility. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the *covered employee* from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

1) FATAL ACCIDENTS – A *covered employee* will be required to undergo urine and breath testing if they are involved in an *accident* with a transit *vehicle*, whether or not the *vehicle* is in revenue service at the time of the *accident*, that results in a fatality. This includes all surviving *covered employees* that are operating the *vehicle* at the time of the *accident* and any other whose performance could have contributed to the *accident*, as determined by the employer using the best information available at the time of the decision.

2) NON-FATAL ACCIDENTS – A post-*accident* test of the employee operating the public transportation *vehicle* will be conducted if an *accident* occurs and at least one of the following conditions is met:

    a. The *accident* results in injuries requiring immediate medical treatment away from the scene, unless the *covered employee* can be completely discounted as a contributing factor to the *accident*.

    b. One or more *vehicles* incurs *disabling damage* as a result of the occurrence and must be transported away from the scene, unless the *covered employee* can be completely discounted as a contributing factor to the *accident*

In addition, any other *covered employee* whose performance could have contributed to the *accident*, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an *accident*, as defined in this policy, the transit supervisor investigating the *accident* will notify the transit employee operating the transit *vehicle* and all other *covered employees* whose performance could have contributed to the *accident* of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the *accident* for *alcohol*, and no longer than 32 hours for drugs. If an *alcohol* test is not performed within two hours of the *accident*, the Supervisor will document the reason(s) for the delay. If the *alcohol* test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any *covered employee* involved in an *accident* must refrain from *alcohol* use for eight (8) hours following the *accident*, or until he/she undergoes a post-*accident alcohol* test.

An employee who is subject to post-*accident* testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the *accident* prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an *accident*, or to prohibit an employee from leaving the scene of an *accident* for the period necessary to obtain assistance in responding to the *accident*, or to obtain necessary emergency medical care.

In the rare event that Mountain Mobility is unable to perform an FTA drug and *alcohol* test (i.e., employee is unconscious, employee is detained by law enforcement agency), Mountain Mobility may use drug and *alcohol* post-*accident* test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

1) All *covered employees* will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-*covered employees*.

2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

3) The number of employees randomly selected for drug/*alcohol* testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at https://www.transportation.gov/odapc/random-testing-rates.

4) Each *covered employee* shall be in a pool from which the random selection is made. Each *covered employee* in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.

5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Mountain Mobility authority.

6) Random tests can be conducted at any time during an employee's shift for drug testing. *Alcohol* random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Mountain Mobility's authority, a non-DOT random *alcohol* test may be performed any time the *covered employee* is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.

7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

Mountain Mobility will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of *safety-sensitive functions*. All *covered employees* who previously tested positive on a drug or *alcohol* test or refused a test, must test negative for drugs, *alcohol* (below 0.02 for *alcohol*), or both and be evaluated and released by the *Substance Abuse Professional* before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and *alcohol*-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, *alcohol* test, or both.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or *alcohol* testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-*accident*, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

1) Any *covered employee* that has a verified positive drug or *alcohol* test, or *test refusal*, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified *Substance Abuse Professionals (SAP)* for assessment, and will be terminated.

2) Following a *negative dilute* the employee will be required to undergo another test. Should this second test result in a *negative dilute* result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

3) Refusal to submit to a drug/*alcohol* test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A *test refusal* is defined as any of the following circumstances:

    a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.

    b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

    c. Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the

testing site before the testing process commenced for a pre-employment test has not refused to test.

d. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.

e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.

f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.

g. Fail to undergo a medical evaluation as required by the MRO or the employer's *Designated Employer Representative (DER)*.

h. Fail to cooperate with any part of the testing process.

i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.

j. Possess or wear a prosthetic or other device used to tamper with the collection process.

k. Admit to the adulteration or substitution of a specimen to the collector or MRO.

l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).

m. Fail to remain readily available following an *accident*.

n. As a *covered employee*, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

4) An *alcohol* test result of $\geq$0.02 to $\leq$ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a non-DOT *alcohol* test with a result of less than 0.02 BAC.

5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

   a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;

   b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Mountain Mobility employment.

i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/*alcohol* test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of Mountain Mobility and will be performed using non-DOT testing forms.

c. Refusal to submit to a periodic unannounced follow-up drug/*alcohol* test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**

d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy**.

e. Periodic unannounced follow-up drug/*alcohol* testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.

f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Mountain Mobility.

g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and *alcohol* testing.

6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or *test refusal* is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

Mountain Mobility is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who

knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

1) Drug/*alcohol* testing records shall be maintained by the Mountain Mobility Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/*alcohol* test shall not be disclosed without express written consent of the tested employee.

2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of *prohibited drugs* or misuse of *alcohol* including any drug or *alcohol* testing records. *Covered employees* have the right to gain access to any pertinent records such as equipment calibration records, and records of *laboratory* certifications. Employees may not have access to SAP follow-up testing plans.

3) Records of a verified positive drug/*alcohol* test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.

4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.

5) Records of an employee's drug/*alcohol* tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/*alcohol* test. The records will be released to the decision maker in the proceeding.

6) Records will be released to the National Transportation Safety Board during an *accident* investigation.

7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or *alcohol* test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

8) Records will be released to the *DOT* or any *DOT agency* with regulatory authority over the employer or any of its employees.

9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Mountain Mobility or the employee.

10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken

11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the Buncombe County Board of Commissioners on September 21, 2021.

_____

Chairman, Board of Commissioners

Attachment A

Job Title	Job Duties and Safety- Sensitive Functions	Employer
General Manager	If dispatcher or vehicle operator position/function is performed	RATP Dev DBA Buncombe County Transit Management, Inc.
Operations Manager	If dispatcher or vehicle operator position/function is performed	
Dispatcher	Control, dispatch, and/or movement of a revenue service vehicle	
Vehicle	Operation of a mass transit revenue service vehicle	
Safety/Training Manager	If dispatcher or driver position/function is performed	
Fleet Manager	If dispatcher or driver position/function is performed	
Maintenance Staff	Maintenance, if not contracted out	
Transit Program Manager	No safety-sensitive functions are performed	Land-of-Sky Regional Council
Mobility Specialist	No safety-sensitive functions are performed	
Senior Program Assistant	No safety-sensitive functions are performed	
Planning Director	No safety-sensitive functions are performed	Buncombe County
Community Development Division Manager	No safety-sensitive functions are performed	
Planner II	No safety-sensitive functions are performed	
County Garage Staff	No safety-sensitive functions are performed	

[1] This list may be changed as necessary to include all current employment positions and reflect the safety-sensitive status of all positions that may be affected by this policy statement.

Attachment B

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Mountain Mobility Drug and Alcohol Program Manager
Name: Elaina Carter
Title: General Manager, Mountain Mobility
Address: 2000 Riverside Drive, Suite 17, Asheville, NC 28804
Telephone Number: 828.250.6750

Medical Review Officer
Name: Charlton Owensby, M.C.
Title: Certified Medical Review Officer
Address: Caromont Occupational Medicine, 3700 Moorland Dr., Charlotte, NC 28226
Telephone Number: 704.834.2000

Substance Abuse Professional #1
Name: Cynthia S. Buff, Ph.D.
Title: Substance Abuse Professional
Address: 107 Brevard Rd., Asheville, NC 28806
Telephone Number: 828.253.0778

Substance Abuse Professional #2
Name: Andrea Morris
Title: Substance Abuse Professional
Address: 190 Broadway Street, Suite 204, Asheville, NC 28806
Telephone Number: 828.785.4285

HHS Certified Laboratory Primary Specimen
Name: Alere Toxicology Services
Address: 450 Southlake Blvd., Richmond, VA, 23236
Telephone Number: 804.378.9130

Attachment C

Attachment C defined terms in ***italics and bold*** appear in the Mountain Mobility Drug and Alcohol Policy or elsewhere within Attachment C. Attachment C defined terms in *italics only* do not appear in the Mountain Mobility Drug and Alcohol Policy and are provided for reference, clarification, and information.

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

a. An individual dies;

b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,

c. One or more *vehicles* incur *disabling damage* as the result of the occurrence and is transported away from the scene by a tow truck or other *vehicle*. For purposes of this definition, *disabling damage* means damage which precludes departure of any *vehicle* from the scene of the occurrence in its usual manner in daylight after simple repairs. *Disabling damage* includes damage to *vehicles* that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated Specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration*:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot*:* A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Canceled Test: A drug or *alcohol* test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Confirmatory Drug Test*:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test: A second test performed on a different *aliquot* of the original urine specimen to further support a validity test result.

Covered Employee (Under FTA Authority)*:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Designated Employer Representative (DER)*:* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, *The Department,* ***DOT Agency****:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a *DOT agency* for drug testing purposes. These terms include any designee of a *DOT agency*.

Dilute Specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling Damage*:* Damage which precludes departure of any *vehicle* from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to *vehicles* that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 *alcohol concentrations*, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Initial Drug Test: (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result*:* The result reported by an HHS-certified *laboratory* in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

***Laboratory**:* Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by *DOT* under this part.

Limit of Detection (LOD): The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation: For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

***Medical Review Officer (MRO)**:* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving *laboratory* results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

***Negative Dilute**:* A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

***Negative Result**:* The result reported by an HHS-certified *laboratory* to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An *alcohol concentration* of less than 0.02 BAC is a negative test result.

Non-negative Test Result: A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or *confirmatory drug test*.

Performing (a Safety-sensitive Function): A *covered employee* is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

***Positive Result**:* The result reported by an HHS- Certified *laboratory* when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

***Prohibited Drug**:* Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split specimen when the second *laboratory* is able to corroborate the original result reported for the primary specimen.

Rejected for Testing: The result reported by an HHS- Certified *laboratory* when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

***Revenue Service Vehicles**:* All transit *vehicles* that are used for passenger transportation service.

***Safety-sensitive Functions**:* Employee duties identified as:

(1) The operation of a transit *revenue service vehicle* even when the *vehicle* is not in revenue service.

(2) The operation of a non-*revenue service vehicle* by an employee when the operation of such a *vehicle* requires the driver to hold a Commercial Drivers License (CDL).

(3) Maintaining a *revenue service vehicle* or equipment used in revenue service.

(4) Controlling the movement of a *revenue service vehicle* and

(5) Carrying a firearm for security purposes.

***Split Specimen Collection**:* A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

***Substance Abuse Professional (SAP)**:* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and *alcohol* counselor (certified by an organization listed at https://www.transportation.gov/odapc/sap) with knowledge of and clinical experience in the diagnosis and treatment of drug and *alcohol* related disorders.

Substituted Specimen: A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

***Test Refusal**:* The following are considered a refusal to test if the employee:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.

(2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

(3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.

(4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.

(5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.

(6) Fail or decline to take a second test as directed by the collector or the employer for drug testing.

(7) Fail to undergo a medical evaluation as required by the MRO or the employer's *Designated Employer Representative (DER)*.

(8) Fail to cooperate with any part of the testing process.

(9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.

(10) Possess or wear a prosthetic or other device used to tamper with the collection process.

(11) Admit to the adulteration or substitution of a specimen to the collector or MRO.

(12) Refuse to sign the certification at Step 2 of the *Alcohol* Testing Form (ATF).

(13) Fail to remain readily available following an *accident*.

(14) As a *covered employee*, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Vehicle*:* A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit *vehicle* is a *vehicle* used for public transportation or for ancillary services.

Verified Negative Test: A drug test result reviewed by a *medical review officer* and determined to have no evidence of *prohibited drug* use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified Positive Test: A drug test result reviewed by a *medical review officer* and determined to have evidence of *prohibited drug* use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity Testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

MOUNTAIN MOBILITY
DRUG & ALCOHOL TESTING POLICY

Presented by

William High

Planning Development Department
Community Development Division

September 21, 2021

DRUG & ALCOHOL TESTING POLICY PURPOSES

- Ensure transportation is delivered safely, efficiently, and effectively
- Establish a drug and alcohol-free work environment
- Ensure the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public

DA TESTING POLICY KEY COMPONENTS

- Describe Prohibited Substances and Conduct
- Specify Testing Requirements and Procedures
- Establish Types of Testing
- Identify Steps Following Testing

DA POLICY REPLACING SUBSTANCE ABUSE POLICY

- Buncombe County adopted a Substance Abuse Policy in 1995
- Substance Abuse Policy was updated as recently as October 2020
- NCDOT IMD issued a new Drug and Alcohol Testing Policy template in April 2021
- NCDOT System Safety Plan Compliance Review (April-May 2021) indicated adoption of the NCDOT IMD Drug and Alcohol Testing Policy template as a replacement of the Substance Abuse Policy would ensure compliance going forward

REQUESTED BOARD ACTION

- Adopt the Resolution Replacing the Existing Substance Abuse Policy for Mountain Mobility with the Drug and Alcohol Testing Policy for Mountain Mobility, to remain compliant with NCDOT requirements and federal regulations.

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

New Business

Department: Planning & Development, Community Development Division

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

Subject: Resolution Approving Revisions to the System Safety Plan for Mountain Mobility, Buncombe County's Community Transportation System

Brief Summary:

In accordance with North Carolina Department of Transportation (NCDOT) requirements, Buncombe County has an adopted System Safety Plan (SSP) for its Community Transportation System, Mountain Mobility. An internal annual SSP review is conducted to ensure the SSP reflects current state and federal regulations and meets system needs. This internal review was informed by an NCDOT System Safety Plan Compliance Review which was undertaken beginning in April 2021. A detailed 2021 SSP Review Report and SSP Revision Index were developed. Proposed SSP revisions include:

- Updated Vehicle Maintenance and Daily Vehicle Inspections instructions to include vehicle maintenance key control language; and
- Inclusion of new Drug and Alcohol Testing Policy based on new NCDOT Template.

The Community Transportation Advisory Board (CTAB) reviewed the SSP revisions at its August 5, 2021 meeting. Board approval of SSP revisions is required.

Recommended Motion & Requested Action:

Adopt the Resolution Approving Revisions to the System Safety Plan (SSP) for Mountain Mobility, Buncombe County's Community Transportation System, to remain in compliance with NCDOT requirements and federal regulations.

County Manager's Comments and Recommendation:

Adopt the resolution as recommended.

RESOLUTION NO. 21-09-23

RESOLUTION APPROVING REVISIONS TO THE SYSTEM SAFETY PLAN (SSP) FOR MOUNTAIN MOBILITY, BUNCOMBE COUNTY'S COMMUNITY TRANSPORTATION SYSTEM

WHEREAS, the strategic safety goals of the Federal Transit Administration (FTA) and the North Carolina Department of Transportation (NCDOT) promote the public health and safety by working toward the elimination of transportation related deaths, injuries and property damage; and

WHEREAS, the FTA and the National Transportation Safety Board (NTSB) require the reporting of certain transportation related accidents;

WHEREAS, the vision for public transportation services in North Carolina includes the provision of safe, affordable transportation choices, statewide, to those who have travel options and to those whose options are limited;

WHEREAS, the development and implementation of System Safety Plans (SSP) by Community Transportation systems is a fundamental step toward these goals and vision, and the North Carolina Board of Transportation (NCBOT) requires Community Transportation Systems that receive federal and/or state funds to have an approved SSP which includes provision for local system safety data collection and reporting; and

WHEREAS, the Buncombe County Board of Commissioners adopted the System Safety Program Plan for Mountain Mobility on July 20, 2004, and has approved subsequent revisions to the Mountain Mobility SSP as needed; and

WHEREAS, the SSP outlines requirements necessary to ensure continuation of operations in six core areas, including driver/employee selection, training, safety data acquisition analysis, substance abuse program, vehicle maintenance, and security; and

WHEREAS, the Board of Commissioners feels it is in the best interests of the citizens of Buncombe County to support and approve the policies and elements presented in the revised Mountain Mobility SSP.

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

1. That the Buncombe County Board of Commissioners hereby approves the attached revisions to the System Safety Plan (SSP) for Mountain Mobility, Buncombe County's Community Transportation System.

2. That this Resolution is effective upon its adoption.

Adopted this 21st day of September, 2021.

ATTEST:

Lamar Joyner

Lamar Joyner, Clerk to the Board

BOARD OF COMMISSIONERS
FOR THE COUNTY OF BUNCOMBE

By: Brownie Newman

Brownie Newman, Chairman

APPROVED AS TO FORM:

County Attorney

Buncombe County Community Development Division

Matthew Cable, AICP
Community Development Division Manager

Mountain Mobility System Safety Plan 2021 Annual Management Review Report

Background and General Information

The current Mountain Mobility System Safety Plan (SSP) was adopted by the County Board of Commissioners March 4, 2014 (an update to the June 2004 System Safety Program Plan). Buncombe County Planning and Development staff conduct an annual SSP review in consultation with Mountain Mobility Operations staff. The preceding annual review occurred in October 2020.

Mountain Mobility Operations, through an *Annual SSP Review Report*, provides recommended SSP revisions that align with current information, training, and operational procedures and practices. Buncombe County staff review proposed revisions to determine they are both appropriate and reasonable. SSP revisions are thereafter presented to the Buncombe County Community Transportation Advisory Board (CTAB). The CTAB received the current proposed revisions at its quarterly meeting on August 5, 2021.

SSP Reports and Analyses

Buncombe County staff conduct ongoing monitoring and review of Mountain Mobility Operations' SSP administration.

Mountain Mobility Operations submits monthly the following: (1) employee records; (2) vehicle operator turnover reports; (3) vehicle operator training records; (4) drug and alcohol testing records; (5) accident/incident/safety and security complaints records; (6) safety data and trend analysis reports; (7) copies of NC State Vehicle Inspections; (8) vehicle and wheelchair lift preventative maintenance compliance records; (9) current miles and preventative maintenance due mileage logs; and (10) mileage and breakdown reports.

Mountain Mobility Operations submits quarterly the following: (1) safety meeting records; (2) employee safety committee meeting records; and (3) facility inspection reports.

Mountain Mobility Operations submits annually the following: OSHA inspection records; (2) hazard assessment reports; (3) workplace security assessment documents; (4) internal safety audit records; and (5) DAMIS reports.

Buncombe County staff maintain a compliance checklist and issue a monthly Certification of Review summarizing compliance and inspection reports and supporting documentation reviewed, which are retained on file.

Conclusion

The SSP will be updated upon approval of revisions by the Board of Commissioners. The 2021 Annual Management Review Report, 2021 Annual SSP Review Report, and revised SSP will be submitted to the NCDOT Integrated Mobility Division as required.

Buncombe County Community Development Division

Matthew Cable, AICP
Community Development Division Manager

Mountain Mobility System Safety Plan 2021 Annual SSP Review Report

The Mountain Mobility System Safety Plan (SSP) outlines the following with regard to revisions:

The SSP will be updated as changes occur. An annual review is required to ensure all information is current. The annual review and updates will be reviewed by the Community Transportation Advisory Board, adopted by the Buncombe County Board of Commissioners, and certified by NCDOT PTD. The SSP should reflect the changing needs of Mountain Mobility programs. As a public transportation system evolves and operates, it must consistently monitor the programs and update the SSP accordingly.

To ensure that this occurs, the management operations staff will be responsible for preparing an annual report that assesses the adequacy and effectiveness of all phases of the SSP. Members of a SSP Review Committee, as well as system managers, are jointly responsible for maintaining and updating the SSP. The annual report will be submitted to Buncombe County for review and revisions, if needed, and the final annual report will be submitted to the Community Transportation Advisory Board for review and the Buncombe County Board of Commissioners for approval. A copy of the approved annual report will be submitted to NCDOT PTD Safety & Training Unit.

Report topics will include:

1. Results of incident investigations and analysis
2. Identification of possible hazardous conditions
3. Results of inspections
4. Established plans for handling future incidents
5. Analysis of departmental involvement in the administration of the SSP
6. Recommendations for SSP revisions

Below is a summary of these efforts conducted from August 2020 through May 2021.

1. Results of Incident Investigations and Analysis

This effort is ongoing and conducted regularly through the documentation of incidents which are reported to Buncombe County, NCDOT, and NTD. Trends are analyzed and actions are taken to prevent future incidents through retraining, hazard elimination, etc. as outlined by the SSP.

2. Identification of Possible Hazardous Conditions

This effort is ongoing and conducted regularly through the documentation of incidents, completion of OSHA inspections, conducting of Safety Committee Meetings and other efforts as outlined in the SSP. All of these items are reported to Buncombe County. Trends are analyzed and actions taken to eliminate possible hazardous conditions.

3. Results of Inspections

All safety related inspections are maintained on record and provided to Buncombe County during requested reporting time periods.

4. Established Plans for Handling Future Incidents

Where analysis reveals a causal trend, policy and/or procedure will be put into place and/or practice to handle future incidents, including hazardous conditions. Any policies and procedures which are enacted are communicated to Buncombe County and, as appropriate, included in the next annual update of the SSP (See item 6).

5. Analysis of Departmental Involvement in the Administration of the SSP

All staff of Mountain Mobility Operations take an active role in execution of the SSP. The Safety/Training Manager, Fleet Manager, Operations Manager, and General Manager are involved in the administration of the SSP. Dispatchers, operators, schedulers, and operations' administrative staff also assist in administration, as described by the SSP. The SSP must be supported and implemented at all levels and involvement is as anticipated and required.

6. Recommendations for SSP revisions

An annual review was scheduled to occur August through October 2021. This review was superseded by a System Safety Plan Compliance Review conducted by the NCDOT Integrated Mobility Division (IMD). This NCDOT IMD SSP Compliance Review occurred on April 19, 2021 and was closed May 25, 2021.

The NCDOT IMD found the Mountain Mobility System Safety Plan (SSP) compliant with NCDOT IMD requirements and requested a single revision to SSP language regarding key control

On May 25, 2021 NCDOT IMD requested Buncombe County modify its Substance Abuse Policy for Mountain Mobility to align with a new NCDOT IMD template released April 14, 2021. The new Drug and Alcohol Testing Policy (which will amend the Substance Abuse Policy for Mountain Mobility) will be presented to the Board of Commissioners at its September 21, 2021 meeting. This policy will be included in the appendices of the SSP. Buncombe County Planning and Development staff will remove the previous policy and replace it with the September 21, 2021 amended policy, and confirm the operating contractor adopts an equally acceptable policy.

In light of the NCDOT audit, Mountain Mobility management, operations, and administrative staff did not perform a separate review of the SSP. Revisions proposed during the audit include the following:

Section 5 Vehicle Maintenance: Updated *Vehicle Maintenance and Daily Vehicle Inspections* instructions to include vehicle maintenance key control paragraph.

New Drug and Alcohol Testing Policy: Replacement of existing Substance Abuse Policy with the NCDOT provided Drug and Alcohol Testing Policy, which has been included in Appendix E.

MOUNTAIN MOBILITY SSP

Presented by

William High

Planning Development Department
Community Development Division

September 21, 2021

SYSTEM SAFTEY PLAN (SSP) PURPOSES

- Provide a documented approach to accomplishing a safety program
- Provide safety policies and procedures to staff
- Reduce accidents and injuries through preventative measures

SSP KEY COMPONENTS

The SSP consists of six (6) core elements:

- Vehicle Operator/Employee Selection
- Vehicle Operator/Employee Training
- Safety Data Acquisition Analysis
- Drug, Alcohol and Abuse Program
- Vehicle Maintenance
- Security

SSP REVISIONS

- Include vehicle maintenance key control language; and
- Include new Drug and Alcohol Testing Policy using NCDOT template.

REQUESTED BOARD ACTION

- Adopt the Resolution Approving Revisions to the System Safety Plan (SSP) for Mountain Mobility, Buncombe County's Community Transportation System, to remain in compliance with NCDOT requirements and federal regulations.

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

New Business

Department: Planning & Development, Community Development Division

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

Subject: Resolution Amending the Title VI Plan and Authorizing the Chairperson to: Sign the Title VI Plan Review and Approval Document, Execute a Title VI Nondiscrimination Agreement, and Execute Necessary U.S. DOT Title VI Assurances for Mountain Mobility

Brief Summary:

Buncombe County, as a recipient of federal and state funds for public transportation services, is required to adopt a Title VI Plan and execute a Title VI Nondiscrimination Agreement and necessary U.S. DOT Title VI Assurances.

Buncombe County first adopted a Title VI Plan for Mountain Mobility in 2008. The Title VI Plan is required to be reviewed and updated each three (3) years. The last Title VI Plan update occurred in 2018.

A proposed updated Title VI Plan, based upon the North Carolina Department of Transportation's (NCDOT's) provided template, has been provisionally approved by the NCDOT Office of Civil Rights. A detailed summary of the updates to the Title VI Plan is provided in the Management Review Report. A complete Title VI Plan is available upon request.

Recommended Motion & Requested Action:

Adopt the Resolution Amending the Title VI Plan for Mountain Mobility, and authorizing action by the Chairperson, to remain compliant with NCDOT requirements and federal regulations.

County Manager's Comments and Recommendation:

Adopt the resolution as recommended.

RESOLUTION NO. 21-09-24

RESOLUTION APPROVING REVISIONS TO THE TITLE VI PLAN FOR MOUNTAIN MOBILITY AND AUTHORIZING THE CHAIRMAN TO EXECUTE A TITLE VI NONDISCRIMINATION AGREEMENT AND U.S. DOT TITLE VI ASSURANCES FOR MOUNTAIN MOBILITY

WHEREAS, Title VI of the Civil Rights Act of 1964 states that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (42 USC Section 200d); and

WHEREAS, Buncombe County does not discriminate on the basis of race, color, religion, sex, national origin, or disability in admission or access to, or treatment or employment in, its services, programs, and activities; and

WHEREAS, as a recipient of federal and state funds for Mountain Mobility, Buncombe County's Community Transportation System, the County is required to adopt a Title VI Plan and Title VI Nondiscrimination Agreement and provide the required assurances and certifications required by the North Carolina Department of Transportation and Federal Transit Administration; and

WHEREAS, a Title VI Plan for Mountain Mobility has been in place since 2008 and applies to all services and programs provided through Mountain Mobility, whether carried out by Buncombe County directly or through any existing or potential contractor or any other entity with whom the County arranges to carry out its programs and activities; and

WHEREAS, updates to the plan are needed in order to be compliant with current state and federal guidelines and regulations; and

WHEREAS, the Board of Commissioners feels it is in the best interests of the citizens of Buncombe County to adopt an update to the Title VI Plan to ensure the protection of all citizens in accordance with Buncombe County's established nondiscrimination policies.

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

1. That the Board of Commissioners hereby approves and adopts the Title VI Plan for Mountain Mobility, Buncombe County's Community Transportation System, included as Exhibit A.

2. That the Chairman be and he is hereby authorized to sign the Title VI Plan Review and Approval document included as Exhibit B.

3. That the Chairman be and he is hereby authorized to execute the Title VI Nondiscrimination Agreement included as Exhibit C.

4. That the Chairman be and he is hereby authorized to execute the U.S. DOT Assurances associated with Title VI during the effective plan period.

5. That this Resolution is effective upon its adoption.

Adopted this 21st day of September, 2021.

ATTEST:

BOARD OF COMMISSIONERS
FOR THE COUNTY OF BUNCOMBE

Lamar Joyner, Clerk to the Board

By: Brownie Newman, Chairman

APPROVED AS TO FORM:

County Attorney

Buncombe County Community Development Division

Matthew Cable, AICP
Community Development Division Manager

Mountain Mobility Title VI Plan
Management Review Report

Background and General Information

The current Mountain Mobility Title VI Plan was adopted by the Buncombe County Board of Commissioners May 15, 2018. A review of the Title VI Plan is required every three (3) years, at minimum, to ensure all information is current and reflects current federal regulations.

Buncombe County Planning and Development staff and Mountain Mobility Administration staff are responsible for implementing the Title VI Plan. On a regular basis, and during the required three (3) year review, recommended updates to the Title VI Plan are identified by Mountain Mobility Administration staff and provided to Buncombe County staff via a Management Review Report. Buncombe County staff review the Management Review Report to ensure proposed updates are appropriate and reasonable. All Mountain Mobility Administration recommended updates are acceptable to staff, will ensure consistency with current federal regulations, and will improve Title VI Plan implementation.

During the current review, Mountain Mobility Administration staff recommended use of the current Title VI Plan template furnished by North Carolina Department of Transportation (NCDOT) Office of Civil Rights and provided a draft plan for review by Buncombe County staff. The draft was provided to the NCDOT Office of Civil Rights and has been provisionally accepted.

The Mountain Mobility Administration staff Management Review Report was completed and the proposed draft revised Title VI Plan was presented to the Buncombe County Community Transportation Advisory Board (CTAB) at its regular meeting on August 5, 2021.

Conclusion

Existing Title VI Plans will be updated immediately following approval of the recommendations presented in this report by the Buncombe County Board of Commissioners. This 2021 Management Review Report and a copy of the revised Mountain Mobility Title VI Plan will be submitted by Buncombe County to the NCDOT Integrated Mobility Division (IMD) and NCDOT Office of Civil Rights for acceptance.

May 2021 Management Review Report

Recommendations for Title VI Plan Revisions

The Mountain Mobility Administration staff participate in a regular review of the Title VI Plan and associated Public Involvement and Language Assistance Plans, at minimum, each three (3) years. The Mountain Mobility Administration staff began a formal review of the Title VI Plan (and its incorporated Public Involvement Plan and Language Assistance Plan) in March 2021. Buncombe County Planning and Development Staff and Mountain Mobility Operations staff had the opportunity to review and provide comment on the Title VI Plan. All recommendations were compiled in May 2021.

The proposed Title VI Plan was drafted using a NCDOT provided template, and was updated using 2019: American Community Survey (ACS) 5-Year Estimates data (the most current data available). This Title VI Plan follows the NCDOT provided template to be in keeping with NCDOT recommended language.

Title VI Plan

- Updated Title VI Plan using NCDOT template

Mountain Mobility Title VI Plan

Adopted: 2008
Update #1: May 5, 2015
Update #2: May 15, 2018
Update #3: September 21, 2021

Mountain Mobility Administration
c/o Land of Sky Regional Council
339 New Leicester Hwy
Asheville, NC 28806
828-250-6750, ext. 5

This policy will be translated and available in Spanish language upon approval by the state.

Plan Review and Approval

On behalf of the Board of Commissioners for Buncombe County, I hereby acknowledge receipt of the Title VI Nondiscrimination Plan for Mountain Mobility, Buncombe County's community transportation program. We, the Board of Commissioners, have ***reviewed and hereby approve*** this Plan. We are committed to ensuring that all decisions are made in accordance with the nondiscrimination guidelines of this Plan, to the end the no person is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any Mountain Mobility transportation services and activities on the basis of race, color, national origin, sex, age, religion, or disability, as protected by Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Federal Transit Administration.

_____ _____

Signature of Buncombe County Commission Chair DATE

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Title VI Nondiscrimination Agreement between the North Carolina Department of Transportation and Buncombe County

In accordance with DOT Order 1050.2A, Buncombe County assures the North Carolina Department of Transportation (NCDOT) that no person shall, on the ground of **race, color, national origin, sex, age, or disability**, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and related nondiscrimination authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity undertaken by Mountain Mobility .

Further, Buncombe County / Mountain Mobility hereby agrees to:

1. Designate a Title VI Coordinator that has a responsible position within Buncombe County and easy access to the Accountable Executive (AE) of Buncombe County.
2. Issue a policy statement, signed by the Accountable Executive of Buncombe County, which expresses a commitment to the nondiscrimination provisions of Title VI and related applicable statutes. The signed policy statement shall be posted and circulated throughout Buncombe County and to the general public, and published where appropriate in languages other than English. The policy statement will be re-signed when there is a change of Accountable Executive.
3. Insert the clauses of the contract language from Section 6.1 in every contract awarded by Buncombe County. Ensure that every contract awarded by Buncombe County's contractors or consultants also includes the contract language.
4. Process all and, when required, investigate complaints of discrimination consistent with the procedures contained within this Plan. Log all complaints for the administrative record.
5. Collect statistical data (race, color, national origin, sex, age, disability) on participants in, and beneficiaries of, programs and activities carried out by Buncombe County.
6. Participate in training offered on Title VI and other nondiscrimination requirements. Conduct or request training for employees or Buncombe County's subrecipients.
7. Take affirmative action, if reviewed or investigated by NCDOT, to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless reasonable provisions are granted by NCDOT.
8. Document all Title VI nondiscrimination-related activities as evidence of compliance. Submit information and reports to NCDOT on a schedule outlined by NCDOT.

THIS AGREEMENT is given in consideration of, and for the purpose of obtaining, any and all federal funds, grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding.

Authorized Signature

Date

Brownie Newman
Chairman, Buncombe County Board of Commissioners

Introduction

Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000d provides that: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The broader application of nondiscrimination law is found in other statutes, executive orders, and regulations, which provide additional protections based on age, sex, religion, and disability, including the 1987 Civil Rights Restoration Act, which extended nondiscrimination coverage to all programs and activities of federal-aid recipients, subrecipients, and contractors, including those that are not federally-funded (see Appendix A – Applicable Nondiscrimination Authorities).

Buncombe County is a recipient of Federal financial assistance from the North Carolina Department of Transportation (NCDOT) and the United States Department of Transportation (USDOT), receiving Federal Transit Administration (FTA) funds through the NCDOT. As the primary recipient of USDOT funds in North Carolina, the NCDOT's comprehensive Title VI Nondiscrimination Program includes compliance oversight and technical assistance responsibilities towards its subrecipients and those subrecipients must use federal and state funds in a nondiscriminatory manner.

Buncombe County establishes this Title VI Nondiscrimination Plan for the purpose of complying with Title VI of the Civil Rights Act of 1964, as required by FTA Circular 4702.1B, and related requirements outlined under Group 01.D, "Nondiscrimination Assurance," of the FTA Certifications and Assurances. This document details the nondiscrimination program, policies, and practices administered by this organization, and will be updated periodically to incorporate changes and additional responsibilities as they are made.

Mountain Mobility is the community transportation program provided by Buncombe County.

Description of Programs and Services

Programs and Services Administered

Mountain Mobility provides public transportation options to its customers throughout Buncombe County, North Carolina. Demand response services are provided from 5:30a – 7:30p Monday through Saturday. Most demand response riders are covered under existing grants and ride fare free, however our rural general public customers pay a $3 fare. Mountain Mobility is additionally the ADA Complementary Paratransit provider for the City of Asheville's ART fixed route system. City of Asheville ADA Complementary Paratransit customers pay a $2 fare, and can use Mountain Mobility anytime that ART operates.

Mountain Mobility also offers three deviated fixed routes, with typically 60 minute headways. These three routes operate along less populated suburban areas, and each connect with a fixed route from the City of Asheville's ART system. All three routes run Monday to Friday, with one route operating on Saturday.

Mountain Mobility operates with the following staff positions (at the time of May 1, 2021):

1. Vehicle Operators: 48
2. Dispatchers: 6
3. Operations Manager: 1
4. Safety/Training Manager: 1
5. Fleet Manager: 1
6. General Manager: 1
7. Reservationists & Schedulers: 4
8. Eligibility and Administration: 2
9. Administration Manager: 1
10. County Oversight: 2

Funding Sources / Tables

For the purpose of federally-assisted programs, "federal assistance" shall include:

1. Grants and loans of Federal funds;
2. The grant or donation of Federal property and interest in property;
3. The detail of Federal personnel;
4. The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
5. Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

Each FTA Formula Grant received by our system during the past year (FY 2021), and whether the funds were received through NCDOT or directly from FTA, is checked below. Additional details are provided on how often each of the grants is received (*annually, first time, etc.*) and the amount.

Grant Title	NCDOT	FTA	Details (i.e., purpose, frequency, and duration of receipt)
5307 (Urbanized Area Formula)	☐	☒	Annual
5309 (b)(2) (Fixed Guideway Modernization)	☐	☐	
5310 (Transportation for Elderly Persons and Persons with Disabilities)	☐	☒	Annual
5311 (Formula Grants for Other than Urbanized Areas)	☒	☐	Annual
5311 (b)(3) (Rural Transit Assistance)	☐	☐	
5316 (Job Access and Reverse Commute)	☐	☐	
5317 (New Freedom)	☐	☐	
5303, 5304 and/or 5305 (Metropolitan & Statewide Planning)	☐	☐	
5339 (Bus and Bus Facilities Formula)	☐	☐	
Other:	☐	☐	

Decision-Making Process

Mountain Mobility's policies are drafted by Buncombe County staff in coordination with operations and administrative staff. These policies are then presented and vetted by our Community Transportation Advisory Board (CTAB), before submission for approval by the Buncombe County Board of Commissioners.

Board or Committee Name	Appointed	Elected	Maximum # of Members
Community Transit Advisory Board	☒	☐	20
Board of Commissioners	☐	☒	7

Title VI Coordinator

The individual below has been designated as the Title VI Coordinator for Mountain Mobility, and is empowered with sufficient authority and responsibility to implement the Title VI Nondiscrimination Program:

Vicki Jennings
Transit Program Manager
339 New Leicester Hwy., Suite 140 • Asheville, NC 28806
828.251.6622
vicki@landofsky.org

Key responsibilities of the Coordinator include:

- Maintaining knowledge of Title VI and related requirements.
- Attending civil rights training when offered by NCDOT or any other regulatory agency.
- Administering the Title VI Nondiscrimination Program and coordinating implementation of this Plan.
- Making sure internal staff and officials are familiarized and complying with their Title VI nondiscrimination obligations.
- Disseminating Title VI information internally and to the general public, including in languages other than English.
- Presenting Title VI-related information to decision-making bodies for input and approval.
- Ensuring Title VI-related posters are prominently and publicly displayed.
- Developing a process to collect data related to race, national origin, sex, age, and disability to ensure minority, low-income, and other underserved groups are included and not discriminated against.
- Ensuring that non-elected boards and committees reflect the service area and minorities are represented.
- Implementing procedures for prompt processing (receiving, logging, investigating and/or forwarding) of discrimination complaints.
- Coordinating with, and providing information to, NCDOT and other regulatory agencies during compliance reviews or complaint investigations.
- Promptly resolving areas of deficiency to ensure compliance with Title VI nondiscrimination requirements.

Change of Title VI Coordinator

If Title VI Coordinator changes, this document and all other documents that name the Coordinator, will immediately be updated, and an updated policy statement and assurance will be signed by the new Title VI Coordinator.

Organizational Chart

An organizational chart showing the Title VI Coordinator's place within Buncombe County is located in **Appendix B**.

Subrecipients

Mountain Mobility does not have pass through funds to any other organizations and, therefore, does not have any subrecipients.

Title VI Nondiscrimination Policy Statement

It is the policy of Mountain Mobility, as a federal-aid subrecipient, to ensure that no person shall, on the ground of **race, color, national origin, sex, age or disability**, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of our programs and activities, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all other related nondiscrimination laws and requirements.

Signature

_____

Nathan Pennington, Planning Director

_____

Date

Title VI and Related Authorities

Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d) provides that, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." The 1987 Civil Rights Restoration Act (P.L. 100-259) clarified and restored the original intent of Title VI by expanding the definition of "programs and activities" to include all programs and activities of federal-aid recipients (such as, Buncombe County), subrecipients, and contractors, whether such programs and activities are federally-assisted or not.

Related nondiscrimination authorities include, but are not limited to: U.S. DOT regulation, 49 CFR part 21, "Nondiscrimination in Federally-assisted Programs of the Department of Transportation–Effectuation of Title VI of the Civil Rights Act"; 49 U.S.C. 5332, "Nondiscrimination (Public Transportation)"; FTA Circular 4702.1B - Title VI Requirements and Guidelines for Federal Transit Administration Recipients; DOT Order 5610.2a, "Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"; FTA C 4703.1 - Environmental Justice Policy Guidance For Federal Transit Administration Recipients; Policy Guidance Concerning (DOT) Recipient's Responsibilities to Limited English Proficient (LEP) Persons, 74 FR 74087; The Americans with Disabilities Act of 1990, as amended, P.L. 101-336; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 790; Age Discrimination Act of 1975, as amended 42 U.S.C. 6101; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601; Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d.

Implementation

- This statement will be signed by the Chairman of the Board of Commissioners of Buncombe County, and re-signed whenever a new person assumes that position.
- The signed statement will be posted on office bulletin boards, near the receptionist's desk, in meeting rooms, inside vehicles, and disseminated within brochures and other written materials.
- The core of the statement (signature excluded) will circulate *internally* within annual acknowledgement forms.
- The statement will be posted or provided in languages other than English, when appropriate.

Notice of Nondiscrimination

- Buncombe County operates its programs and services without regard to race, color, national origin, sex, age, and disability in accordance with Title VI of the Civil Rights Act and related statutes. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice may file a complaint with Buncombe County.
- For more information on Buncombe County's civil rights program, and the procedures to file a complaint, contact 828-250-6750 option 5, (TTY 1-800-735-2962); email mountainmobility@buncombecounty.org; or in person at the administrative office located at 339 New Leicester Hwy, Suite 140, Asheville, NC 28806. For more information, visit https://www.buncombecounty.org/mm.
- If information is needed in another language, contact 828-250-6750.
- A complainant may file a complaint directly with the North Carolina Department of Transportation (NCDOT) by filing with the Office of Equal Opportunity and Workforce Services, External Civil Rights Section, 1511 Mail Service Center, Raleigh, NC 27699-1511, Attention: Title VI Nondiscrimination Program; phone: 919-508-1808 or 800-522-0453, or TDD/TTY: 800-735-2962.
- A complainant may file a complaint directly with the Federal Transit Administration (FTA) by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.

Implementation

- The notice will be posted in its entirety on our website and in any documents and reports we distribute.
- Ads in newspapers and other publications shall include the first three (3) bullets.
- The statement will be posted or provided in languages other than English, when appropriate.

Procedures to Ensure Nondiscriminatory Administration of Programs and Services

We are committed to the nondiscriminatory administration of our programs and services. As with the implementation of our programs in general, organization-wide compliance is required. Thus, employees and staff will periodically be reminded of our Title VI nondiscrimination obligations through staff training and use of the **Annual Education and Acknowledgment Form** below. The Title VI Coordinator will periodically assess program operations to ensure that this policy is being followed. A single copy of the form is located in Appendix D.

Annual Education and Acknowledgement Form

Title VI Nondiscrimination Policy

(Title VI and related nondiscrimination authorities)

No person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a Federal-aid recipient.

All employees and representatives of Mountain Mobility are expected to consider, respect, and observe this policy in their daily work and duties. If any person approaches you with a civil rights-related question or complaint, please direct him or her to Vicki Jennings at 828-250-6750 option 5, (TTY 1-800-735-2962; email mountainmobility@buncombecounty.org.

In all dealings with the public, use courtesy titles (e.g., Mr., Mrs., Miss, Dr.) to address or refer to them without regard to their race, color, national origin, sex, age or disability.

Acknowledgement of Receipt of Title VI Program

I hereby acknowledge receipt of Mountain Mobility's Title VI Program and other nondiscrimination guidelines. I have read the Title VI Program and I am committed to ensuring that no person is excluded from participation in or denied the benefits of Mountain Mobility's programs, policies, services and activities on the basis of race, color, national origin, sex, age, or disability, as provided by Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes.

_____ _____

Signature Date

Implementation

- Periodically, but not more than once a year, employees and representatives will receive, review and certify commitment to the Title VI Program.
- New employees shall be informed of Title VI provisions and expectations to perform their duties accordingly, asked to review the Title VI Program, and required to sign the acknowledgement form.
- Periodic review of operational practices and guidelines by the Title VI Coordinator to verify compliance with the Title VI Program.
- Signed acknowledgement forms and records of internal assessments will remain on file for at least three years.

Contract Administration

Buncombe County ensures all contractors will fulfill their contracts in a nondiscriminatory manner. While contractors are not required to prepare a Title VI Program, they must comply with the nondiscrimination requirements of Buncombe County to which they are contracted. Mountain Mobility and its contractors will not discriminate in the selection and retention of contractors (at any level) or discriminate in employment practices in connection with any of our projects.

Contract language

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Buncombe County or the North Carolina Department of Transportation (NCDOT), the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to Buncombe County, or the NCDOT, FHWA and/or FTA as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Buncombe County shall impose such contract sanctions as it or the NCDOT, FHWA and/or FTA may determine to be appropriate, including, but not limited to:

- withholding of payments to the contractor under the contract until the contractor complies, and/or
- cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Buncombe County or the NCDOT, FHWA and/or FTA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Buncombe County to enter into such litigation to protect the interests of the Buncombe County, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

*The Contractor has read and is familiar with the terms above:

_____

Contractor's Initials

_____

Date

Implementation

- The nondiscrimination language above (**with** initials line) will be appended to any *existing* contracts, purchase orders, and agreements that do not include it, and initialed by the responsible official of the other organization.
- The nondiscrimination language above (**without** initials line) will be incorporated as standard language before the signature page of our standard contracts, purchase orders, and agreements.
- The Title VI Coordinator will review *existing* contracts to ensure the language has been added.

Nondiscrimination Notice to Prospective Bidders

Buncombe County, in accordance with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities, and Title 49 Code of Federal Regulations, Parts 21 and 26, hereby notifies all bidders that it will affirmatively insure that in any contact entered into pursuant to this advertisement, minority and women business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

Implementation

- The nondiscrimination language above will be included in all solicitations for bids for work or material and proposals for negotiated agreements to assure interested firms that we provide equal opportunity and do not discriminate.

- Outreach efforts will be made to minority and women-owned firms that work in requested fields, and documented.
- Unless specifically required under Disadvantaged Business Enterprise (DBE) or Affirmative Action programs, all contractors will be selected without regard to their race, color, national origin, or sex.

External Discrimination Complaint Procedures

These discrimination complaint procedures describe the process used by Mountain Mobility to process and investigate complaints of alleged discrimination filed under Title VI of the Civil Rights Act of 1964 and related nondiscrimination laws that are applicable to programs, services, and activities carried out by Mountain Mobility.

Complaints will be investigated by the appropriate authority. Upon completion of every investigation, Mountain Mobility will inform the complainant of all avenues of appeal. Mountain Mobility will make every effort to obtain early resolution of complaints at the lowest level possible. The option of informal mediation between the affected parties and Mountain Mobility staff may be utilized for resolution.

Filing of Complaints

1. **Applicability –** The complaint procedures apply to the beneficiaries of Mountain Mobility programs, activities, and services, such as the members of the public and any consultants/contractors hired by Mountain Mobility.
2. **Eligibility** – Any person or class of persons who believes that he/she has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities based upon race, color, sex, age, national origin, or disability, may file a written complaint with Mountain Mobility. The law prohibits intimidation or retaliation of any sort. The complaint may be filed by the affected individual or a representative, and must be in writing.
3. **Time Limits and Filing Options** – A complaint must be filed no later than 180 calendar days after the following:
   - **a)** The date of the alleged act of discrimination; or
   - **b)** The date when the person(s) became aware of the alleged discrimination; or
   - **c)** Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.
4. **Submitting Complaints** – Complaints may be submitted to the following entities:
   - **a)** **Mountain Mobility**, 339 New Leicester Hwy., Suite 140 o Asheville, NC 28806; 828.250.6750
   - **b)** North Carolina Department of Transportation, Office of Equal Opportunity and Workforce Services, External Civil Rights Section, 1511 Mail Service Center, Raleigh, NC 27699-1511; 919-508-1830 or toll free 800-522-0453
   - **c)** **US Department of Transportation**, Departmental Office of Civil Rights, External Civil Rights Programs Division, 1200 New Jersey Avenue, SE, Washington, DC 20590; 202-366-4070
   - **d)** Federal Transit Administration, Office of Civil Rights, ATTN: Title VI Program Coordinator, East Bldg. 5th Floor - TCR, 1200 New Jersey Avenue, SE, Washington, DC 20590
   - **e)** **US Department of Justice, Special Litigation Section, Civil Rights Division**, 950 Pennsylvania Avenue, NW, Washington, DC 20530, 202-514-6255 or toll free 877-218-5228
5. **Format for Complaints –** Complaints shall be in **writing** and **signed** by the complainant(s) or a representative and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received

by telephone or in person will be reduced to writing, may be recorded and will be provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages, including Braille.

6. **Discrimination Complaint Form –** The Discrimination Complaint Form is consistent with the Nondiscrimination Assurance in Group 01.D of the FTA Certifications & Assurances.
7. **Complaint Basis –** Allegations must be based on issues involving race, color, national origin, sex, age, or disability. The term "basis" refers to the complainant's membership in a protected group category.

Protected Categories	Definition	Examples	Applicable Statutes and Regulations	
			FHWA	FTA
Race	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 23 CFR 200	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; Circular 4702.1B
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.		
National Origin	Place of birth. Citizenship is not a factor. Discrimination based on language or a person's accent is also covered.	Mexican, Cuban, Japanese, Vietnamese, Chinese		
Sex	Gender	Women and Men	1973 Federal-Aid Highway Act	Title IX of the Education Amendments of 1972
Age	Persons of any age	21 year old person	Age Discrimination Act of 1975	
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990	

Complaint Processing

8. When a complaint is received by Mountain Mobility, a written acknowledgment and a Consent Release form will be mailed to the complainant within ten (10) business days by registered mail.
9. Mountain Mobility Operations cannot internally investigate Title VI complaints filed against itself, but can internally investigate ADA complaints against itself. Mountain Mobility Administration will investigate Title VI and ADA complaints against Mountain Mobility Operations and itself. Buncombe County will investigate Title VI complaints against Mountain Mobility Administration. Mountain Mobility Administration and/or Buncombe County will consult with the NCDOT External Civil Rights Section to determine the acceptability and jurisdiction of all complaints received. (Note: If NCDOT has jurisdiction, the External Civil Rights Section will be responsible for the remainder of this process. Mountain Mobility will record the transfer of responsibility in its complaints log).
10. Additional information will be requested if the complaint is incomplete. The complainant will be provided 15 business days to submit any requested information and the signed Consent Release form. Failure to do so may be considered good cause for a determination of no investigative merit.

11. Upon receipt of the requested information and determination of jurisdiction, Mountain Mobility will notify the complainant and respondent of whether the complaint has sufficient merit to warrant investigation.
12. If the complaint is investigated, the notification shall state the grounds of Mountain Mobility's jurisdiction, while informing the parties that their full cooperation will be required in gathering additional information and assisting the investigator.
13. If the complaint does not warrant investigation, the notification to the complainant shall specifically state the reason for the decision.

Complaint Log

14. When a complaint is received by Mountain Mobility, the complaint will be entered into the Discrimination Complaints Log with other pertinent information, and assigned a **Case Number.** (Note: All complaints must be logged).
15. The complaints log will be submitted to the NCDOT's Civil Rights office during Title VI compliance reviews. (Note: NCDOT may also be request the complaints log during pre-grant approval processes).
16. The **Log Year(s)** since the last submittal will be entered (e.g., 2012-2015, 2014-2015, FFY 2015, or 2015) and the complaints log will be signed before submitting the log to NCDOT.
17. When reporting **no complaints**, check the **No Complaints or Lawsuits** box and sign the log.

Mountain Mobility

DISCRIMINATION COMPLAINT FORM

Any person who believes that he/she has been subjected to discrimination based upon race, color, religion, sex, age, national origin, or disability may file a written complaint with Mountain Mobility, within 180 days after the discrimination occurred.

Last Name:	First Name:	☐ Male ☐ Female

Mailing Address:	City	State	Zip

Home Telephone:	Work Telephone:	E-mail Address

Identify the Category of Discrimination:

☐ RACE ☐ COLOR ☐ NATIONAL ORIGIN ☐ AGE

☐ RELIGION ☐ DISABILITY ☐ SEX

**NOTE: Title VI bases are race, color, national origin. All other bases are found in the "Nondiscrimination Assurance" of the FTA Certifications & Assurances.*

Identify the Race of the Complainant

☐ Black ☐ White ☐ Hispanic ☐ Asian American

☐ American Indian ☐ Alaskan Native ☐ Pacific Islander ☐ Other _____

Date and place of alleged discriminatory action(s). Please include earliest date of discrimination and most recent date of discrimination.

Names of individuals responsible for the discriminatory action(s):

How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently from you. **(Attach additional page(s), if necessary).**

The law prohibits intimidation or **retaliation** against anyone because he/she has either taken action, or participated in action, to secure rights protected by these laws. If you feel that you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances below. Explain what action you took which you believe was the cause for the alleged retaliation.

Names of persons (witnesses, fellow employees, supervisors, or others) whom we may contact for additional information to support or clarify your complaint: (Attached additional page(s), if necessary).

Name	Address	Telephone
1.		
2.		
3.		
4.		

DISCRIMINATION COMPLAINT FORM

Have you filed, or intend to file, a complaint regarding the matter raised with any of the following? If yes, please provide the filing dates. Check all that apply.

- ☐ NC Department of Transportation _____
- ☐ Federal Transit Administration _____
- ☐ US Department of Transportation _____
- ☐ Federal or State Court _____
- ☐ Other _____

Have you discussed the complaint with any Mountain Mobility representative? If yes, provide the name, position, and date of discussion.

Please provide any additional information that you believe would assist with an investigation.

Briefly explain what remedy, or action, are you seeking for the alleged discrimination.

****WE CANNOT ACCEPT AN UNSIGNED COMPLAINT. PLEASE SIGN AND DATE THE COMPLAINT FORM BELOW.**

_____	_____
COMPLAINANT'S SIGNATURE	DATE

MAIL COMPLAINT FORM TO:

Mountain Mobility
339 New Leicester Hwy
Suite 140
Asheville, NC 28806
828-250-6750

FOR OFFICE USE ONLY

Date Complaint Received: _____

Processed by: _____

Case #: _____

Referred to: ☐ NCDOT ☐ FTA Date Referred: _____

DISCRIMINATION COMPLAINTS LOG

Log Year(s):

CASE NO.	COMPLAINANT NAME	RACE/ GENDER	RESPONDENT NAME	BASIS	DATE FILED	DATE RECEIVED	ACTION TAKEN	DATE INVESTIG. COMPLETED	DISPOSITION

No Complaints or Lawsuits ☐

I certify that to the best of my knowledge, the above described complaints or lawsuits alleging discrimination, or **no complaints or lawsuits** alleging discrimination, have been filed with or against Buncombe County / **Mountain Mobility** since the previous Title VI Program submission to NCDOT.

_____ _____

Signature of Title VI Coordinator or Other Authorized Official **Date**

_____

Print Name and Title of Authorized Official

INVESTIGATIVE GUIDANCE

A. Scope of Investigation – An investigation should be confined to the issues and facts relevant to the allegations in the complaint, unless evidence shows the need to extend the issues.

B. Developing an Investigative Plan – It is recommended that the investigator prepares an Investigative Plan (IP) to define the issues and lay out the blueprint to complete the investigation. The IP should follow the outline below:

1. Complainant(s) Name and Address (Attorney name and address if applicable)
2. Respondent(s) Name and Address (Attorney for the Respondent(s) name and address)
3. Applicable Law(s)
4. Basis/(es)
5. Allegation(s)/Issue(s)
6. Background
7. Name of Persons to be interviewed
    a. Questions for the complainant(s)
    b. Questions for the respondent(s)
    c. Questions for witness(es)
8. Evidence to be obtained during the investigation
    a. Issue – Complainant allege that there are only six African American contractors participating in the highway construction industry in the State and their contract awards are very small.
        i. Documents needed: documents which show all DBE firms which currently have contracts and must include the following 1) name and race of DBE firm; 2) Date of initial certification into the DBE program; 3) type of business; 4) contracts awarded anytime during the period to the present; 5) dollar value of contract.

C. Request for Information – The investigator should gather data and information pertinent to the issues raised in the complaint.

D. Interviews – Interviews should be conducted with the complainant, respondent, and appropriate witnesses during the investigative process. Interviews are conducted to gain a better understanding of the situation outlined in the complaint of discrimination. The main objective during the interview is to obtain information that will either support or refute the allegations.

E. Developing an Investigative Report – The investigator should prepare an investigative report setting forth all relevant facts obtained during the investigation. The report should include a finding for each issue. A sample investigative report is provided below.

TEMPLATE/SAMPLE **Investigative Report**

I. COMPLAINANT(S) NAME

II. RESPONDENT(S)

III. APPLICABLE LAW/REGULATION

IV. COMPLAINT BASIS/(ES)

V. ISSUES/ALLEGATIONS

VI. BACKGROUND

VII. INVESTIGATIVE PROCEDURE

VIII. ISSUES / FINDINGS OF FACT

IX. CONCLUSION

X. RECOMMENDED ACTIONS

APPENDIX

Service Area Population Characteristics

To ensure that Title VI reporting requirements are met, Mountain Mobility will collect and maintain population data on potential and actual beneficiaries of our programs and services. This section is intended as a compilation of relevant population characteristics from our overall service area. This data will provide context to the Title VI Nondiscrimination Program and be used to ensure nondiscrimination and improve public outreach initiatives and delivery of ongoing programs.

Race and Ethnicity

The following table was completed using data from 2019: ACS 5-Year Estimates Detailed Tables: TableID B02001; and TableID B03002

Race and Ethnicity	Number	Percent
Total Population	256,886	100.0%
White	228,237	88.8%
Black or African American	16,101	6.3%
American Indian or Alaska Native	1,069	0.4%
Asian	3,249	1.3%
Native Hawaiian and Other Pacific Islander	354	0.1%
Some other Race	2,846	1.1%
Two or More Races	5,030	2.0%
HISPANIC OR LATINO (of any race)	16,889	6.6%
White alone	13,622	5.3%
Black or African American alone	113	0.0%
American Indian and Alaska Native alone	31	0.0%
Asian alone	60	0.0%
Native Hawaiian and Other Pacific Islander alone	-	0.0%
Some other race alone	2,657	1.0%

Age & Sex

The following table was completed using data from 2019 ACS 5-Year Estimates Subject Tables: S0101

	Number			Percent		
Age	Total	Male	Female	Total	Male	Female
Total Population	256,886	123,240	133,646	100%	100%	100%
Under 5 years	12,803	6,645	6,158	5.0%	5.4%	4.6%
Under 18 years	48,156	24,735	23,421	18.7%	20.1%	17.5%
18 to 64 years	158,805	76,795	82,010	62%	62%	61%
65 years and over	49,925	21,710	28,215	19.40%	17.60%	21.10%
Median Age	42.2	40.7	43.8			

Disability

The following table was completed using data from 2019 ACS 5-Year Estimates Subject Tables S1810, Disability Characteristics:

	Total		With a Disability		Percent with a Disability	
Subject	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-
Total Population	253,150	±448	33,752	±1,323	13.3%	±0.5
Population under 5 years	12,801	±27	43	±65	0.3%	±0.5
Population 5 to 17 years	35,227	±101	1,971	±418	5.6%	±1.2
Population 18 to 34 years	54,745	±247	3,865	±478	7.1%	±0.9
Population 35 to 64 years	102,354	±266	12,618	±903	12.3%	±0.9
Population 65 to 74 years	29,181	±177	6,466	±471	22.2%	±1.6
Population 75 and over	18,842	±284	8,789	±542	46.6%	±2.8
SEX						
Male	121,578	±349	16,074	±926	13.2%	±0.8
Female	131,572	±320	17,678	±787	13.4%	±0.6
RACE AND HISPANIC OR LATINO ORIGIN						
White	225,099	±1,036	29,332	±1,229	13.0%	±0.5
Black or African American	15,706	±524	2,811	±437	17.9%	±2.7
American Indian and Alaska Native	1,028	±292	204	±122	19.8%	±11.0
Asian	3,244	±339	298	±127	9.2%	±4.5
Native American and Other Pacific Islander	354	±39	29	±47	8.2%	±14.2
Some other Race	2,791	±854	134	±85	4.8%	±3.1
Two or more races	4,928	±704	944	±288	19.2%	±4.5
Hispanic or Latino	16,815	±38	849	±219	5.0%	±1.3

Poverty

The following table was completed using data from 2019 ACS 5-Year Estimates Subject Tables S1701, Poverty Status in the Past 12 Months:

Subject	Total		Below poverty level		Percent below poverty level	
	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-
Population for whom poverty status is determined	250,342	±539	30,542	±1,954	12.2%	±0.8
AGE						
Under 18	47,204	±287	8,139	±983	17.2%	±2.1
18 to 64	155,115	±378	18,257	±1,227	11.8%	±0.8
65 years and over	48,023	±332	4,146	±427	8.6%	±0.9
SEX						
Male	120,437	±419	13,941	±1,109	11.6%	±0.9
Female	129,905	±347	16,601	±1,213	12.8%	±0.9
RACE AND HISPANIC OR LATINO ORIGIN						
White	222,873	±1,038	25,753	±1,940	11.6%	±0.9
Black or African American	15,549	±531	2,979	±670	19.2%	±4.3
American Indian and Alaska Native	1,009	±289	28	±39	2.8%	±3.8
Asian	3,166	±334	233	±131	7.4%	±4.1
Native American and Other Pacific Islander	354	±39	15	±36	4.2%	±10.8
Some other Race	2,731	±852	740	±452	27.1%	±14.8
Two or more races	4,660	±693	794	±309	17.0%	±6.1
Hispanic or Latino	16,532	±88	5,490	±1,078	33.2%	±6.5
All individuals below:						
50 percent of poverty level	10,089	±1,114				
125 percent of poverty level	43,515	±2,276				
150 percent of poverty level	57,584	±2,652				
185 percent of poverty level	75,225	±2,559				
200 percent of poverty level	82,716	±2,682				

Household Income

The following table was completed using data from 2019 ACS 5-Year Estimates Subject Tables S1901, Income in the Past 12 Months (In 2019 Inflation-Adjusted Dollars):

Subject	Households	
	Estimate	Margin of Error +/-
Total	107,479	±1,260
Less than $10,000	4.0%	±0.4
$10,000 to $14,999	6.0%	±0.6
$15,000 to $24,999	11.1%	±0.7
$25,000 to $34,999	11.7%	±0.8
$35,000 to $49,999	14.9%	±0.9
$50,000 to $74,999	18.9%	±0.9
$75,000 to $99,999	11.4%	±0.7
$100,000 to $149,999	12.2%	±0.6
$150,000 to $199,999	4.7%	±0.5
$200,000 or more	5.0%	±0.5
Median income (dollars)	52,207	±1,072
Mean income (dollars)	74,505	±1,882

Limited English Proficiency Populations

The following table was completed using data from 2019 ACS 5-Year Estimates Subject Tables S1602: Limited English Speaking Households

Subject	Total		Percent		Limited English-speaking households		Percent Limited English-speaking households	
	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-
All households	107,479	±1,260	(X)	(X)	2,739	±500	2.5%	±0.5
Households speaking --								
Spanish	5,591	±420	5.2%	±0.4	1,913	±408	34.2%	±6.2
Other Indo-European languages	2,453	±346	2.3%	±0.3	504	±203	20.5%	±7.0
Asian and Pacific Island languages	899	±175	0.8%	±0.2	322	±126	35.8%	±11.3
Other languages	126	±70	0.1%	±0.1	0	±29	0.0%	±23.9

Population Locations

Federal-aid recipients are required to know the characteristics and locations of populations they serve, particularly by race/ethnicity, poverty and limited English proficiency. This can be accomplished through maps that overlay boundaries and demographic features on specific communities. Population location maps are located in Appendix F.

Title VI Equity Analyses (and Environmental Justice Assessments)

As required under FTA C 4702.1B and 4703.1, Title VI equity and environmental justice (EJ) analyses will be conducted whenever we plan to construct (or modify) a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., or when there will be a change in fares. These studies will be conducted to see if the change could result in either a disparate impact based on race, color or national origin (Title VI) or a disproportionately high and adverse impact to minority and/or low-income populations (EJ). Thus, they will look at various alternatives before selecting a site for the facility. Project-specific demographic data will be collected on potentially affected communities and their involvement in associated decision-making activities will be documented. Specific studies will be made available to oversight agencies during compliance reviews or to evidence our due diligence should a complaint be filed in relation to the location and effect of a proposed facility or fare increases. Project-related equity and EJ studies will remain on file indefinitely.

Public Involvement

Introduction

Effective public involvement is a key element in addressing Title VI in decision-making. Recipients engaged in planning and other decision-making activities must have a documented public participation process that provides adequate notice of public participation activities, and early and continuous opportunities for public review and comment at key decision points. Underlying these efforts is our commitment to determining the most effective outreach methods for a given project or population.

This **Public Participation Plan** describes how Buncombe County will disseminate vital agency information and engage the public by seeking out and considering the needs and input of interested parties and those traditionally underserved by existing transportation systems, such as minority and limited English proficient persons, who may face challenges accessing programs and other services. General public involvement practices will include:

- Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities.
- Employing different meeting sizes and formats.
- Coordinating with community- and faith-based organizations, educational institutions, and other entities to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
- Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.
- Considering radio, television, or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP persons could also include audio programming available on podcasts.

Public Notification

Passengers and other interested persons will be informed of their rights under Title VI and related authorities with regard to our program. The primary means of achieving this will be posting and disseminating the policy statement and notice. Additional measures may include openly stating our obligations and the public's rights at meetings, placing flyers at places frequented by targeted populations, and an equal opportunity tag-on at the end of radio announcements. The method of notification will be determined through an initial screening of the area.

Dissemination of Information

Information on Title VI and other programs will be crafted and disseminated to employees, contractors, stakeholders, and the general public. Public dissemination efforts may vary depending on factors present, but will generally include: posting public statements setting forth our nondiscrimination policy in eye-catching designs and locations; placing brochures in public places, such as government offices, transit facilities, and libraries; having nondiscrimination language within contracts; including nondiscrimination notices in meeting announcements and handouts; and displaying our Notice of Nondiscrimination at all our public meetings.

At a minimum, nondiscrimination information will be disseminated on our website and on posters in conspicuous areas at our office(s). Project-related information and our most current Title VI-related information will be maintained online.

Meetings and Outreach

There is no one-size-fits-all approach to public involvement. A variety of comprehensive and targeted public participation methods will be used to facilitate meaningful public involvement. Methods for engaging stakeholders and target audiences, including traditionally underserved and excluded populations (i.e., minorities, youth, low-income, the disabled, etc.) will include the following:

Public Relations and Outreach

Public relations and outreach (PRO) strategies aim to conduct well-planned, inclusive and meaningful public participation events that foster good relations and mutual trust through shared decision-making with the communities we serve.

- We will seek out and facilitate the involvement of those potentially affected.
- Public events will aim to be collaborative, fun, and educational for all, rather than confrontational and prescriptive.
- Media plans will typically involve multiple channels of communication like mailings, radio, TV, and newspaper ads.
- Abstract objectives will be avoided in meeting announcements. Specific “attention-grabbing” reasons to attend will be used, such as “Help us figure out how to relieve congestion on [corridor name]” or “How much should it cost to ride the bus? Let us know on [date].”
- Efforts will be made to show how the input of participants can, or did, influence final decisions.
- We will do our best to form decision-making committees that look like and relate to the populations we serve.
- We will seek out and identify community contacts and partner with local community- and faith-based organizations that can represent, and help us disseminate information to, target constituencies.
- Demographic data will be requested during public meetings, surveys, and from community contacts and committee members.

Public Meetings

“Public meeting” refers to any meeting open to the public, such as hearings, charrettes, open house and board meetings.

- Public meetings will be conducted at times, locations, and facilities that are convenient and accessible.
- Meeting materials will be available in a variety of predetermined formats to serve diverse audiences.
- An assortment of advertising means may be employed to inform the community of public meetings.
- Assistance to persons with disabilities or limited English proficiency will be provided, as required.

Small Group Meetings

A small group meeting is a targeted measure where a meeting is held with a specific group, usually at their request or consent. These are often closed meetings, as they will typically occur on private property at the owner's request.

- If it is determined that a targeted group has not been afforded adequate opportunities to participate, the group will be contacted to inquire about possible participation methods, including a group meeting with them individually.
- Unless unusual circumstances or safety concerns exist, hold the meeting at a location of the target group's choosing.
- Share facilitation duties or relinquish them to members of the target group.
- Small group discussion formats may be integrated into larger group public meetings and workshops. When this occurs, the smaller groups will be as diverse as the participants in the room.

Community Surveying

- Opinion surveys will occasionally be used to obtain input from targeted groups or the general public on their transportation needs, the quality or costs of our services, and feedback on our public outreach efforts.
- Surveys may be conducted via telephone, door-to-door canvassing, at community fairs, by placing drop boxes in ideal locations, or with assistance from other local agencies like social services.

Limited English Proficiency

Limited English Proficient (LEP) persons refers to persons for whom English is not their primary language who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

In an effort to comply with DOT's LEP policy guidance and Executive Order 13166, this section of our public participation plan outlines the steps we will take to ensure meaningful access to all benefits, services, information, and other important portions of our programs and activities by individuals who are limited-English proficient. Accordingly, a four factor analysis was conducted to determine the specific language services appropriate to provide, and to whom, to inform language assistance planning and determine if our communication with LEP persons is effective.

Four Factor Analysis

This Four Factor Analysis is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the recipient to people's lives; and
4. The resources available to the recipient and costs.

Factor #1: ***The number or proportion of LEP persons eligible to be served or likely to be encountered by the program, activity, or service of the recipient.***

Subject	Total		Percent		Limited English-speaking households		Percent Limited English-speaking households	
	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-
All households	107,479	±1,260	(X)	(X)	2,739	±500	2.5%	±0.5
Households speaking --								
Spanish	5,591	±420	5.2%	±0.4	1,913	±408	34.2%	±6.2
Other Indo-European languages	2,453	±346	2.3%	±0.3	504	±203	20.5%	±7.0
Asian and Pacific Island languages	899	±175	0.8%	±0.2	322	±126	35.8%	±11.3
Other languages	126	±70	0.1%	±0.1	0	±29	0.0%	±23.9

Limited English Proficient (LEP) populations are growing in Buncombe County and throughout Western North Carolina, as indicated by the latest American Community Survey. While households speaking Spanish comprise the largest non-English speaking population, households speaking Indo-European and Asian languages are increasing, thereby increasing the need for services to these populations even though they may not reach the safe harbor threshold. Mountain Mobility is seeing an increase in requests for translation services for these populations.

Geographically, the city of Asheville is home to many populations of LEP individuals. Many Spanish, European and Asian groups have chosen to reside within the city limits. Pockets of both Asian and Eastern European residents occur in the southern and eastern part of Buncombe County, respectively. Despite these growing populations, resources for the Spanish-speaking community are more common, leading pockets of Spanish-speaking households to spread to the western/north western areas of the county outside the city limits of Asheville. As LEP populations spread to more rural areas of Buncombe County, transportation services may be more in demand as access to city transit services decreases.

Factor #2: ***The frequency with which LEP individuals come in contact with the program.***

When accessing Mountain Mobility's services, a community liaison is typically the first point of contact, assisting LEP clients with details and applications. Mountain Mobility receives an average of two calls per month from community resource liaisons attempting to enroll LEP clients. As part of outreach efforts, Mountain Mobility participates in community events quarterly, which gives LEP individuals multiple opportunities to learn more about the service.

Factor #3: *The nature and importance of the program, activity, or service provided by the recipient to people's lives.*

Many LEP individuals live within the city limits of Asheville, giving those individuals access to Asheville's fixed-route service (ART – Asheville Rides Transit). The City of Asheville contracts with Buncombe County (Mountain Mobility))to provide ADA Complementary Paratransit service to those living within the city limits with a qualifying disability. As the LEP and total populations grow, the need for ADA Complementary Paratransit service will increase, becoming one of the most important services Mountain Mobility provides. Mountain Mobility has seen an increased need for transportation services for LEP senior adults, particularly those needing advanced healthcare services such as dialysis and chemotherapy.

Factor #4: *The resources available to the recipient and costs.*

Many resources for LEP households are available in Buncombe County, including translation services, healthcare resources, and other organizations working to connect LEP individuals to the community. Mountain Mobility uses these resources liberally to assist in reaching LEP households, particularly Spanish-speaking households. Mountain Mobility Administration partners with healthcare organizations, food banks and other groups to ensure awareness of Mountain Mobility's availability to their customers, including LEP customers. Mountain Mobility materials are translated into Spanish for dissemination. Additionally, Mountain Mobility uses the Interactive Voice Response system – or IVR – to communicate with LEP clients. This service is available in 5 languages: English, Spanish, Russian, Chinese and Ukrainian. Mountain Mobility also has access to a translation phone service for assistance with more than 300 languages/dialects.

Language Assistance Plan

As a result of the above four factor analysis, a Language Assistance Plan (LAP) was required. This plan outlines organizational practices to monitor, evaluate, and update LEP procedures, and the types of assistance provided to ensure fair treatment and meaningful access to LEP persons.

Language Assistance Measures

The following general language assistance measures are reasonable and achievable for our organization at this time:

- Translating public notices posted in the local paper and at stations, stops, and in vehicles into the languages of all language groups that met the threshold in Factor 1.
- Making a concerted effort to inform LEP persons of available language assistance via staff, broadcast media, relationship-building with organizations, and our website.
- Posting vital bulletin board information and disseminating community surveys in various languages.
- Providing translation and interpretive services when appropriate (upon request or predetermined) at meetings.
- Determining how best to take public involvement to LEP groups directly, including through small group meetings.
- Language line translation services at our call center.
- Utilizing or hiring staff who speak a language other than English and can provide competent language assistance. Note: We will not ask community-based organizations to provide, or serve as, interpreters at our meetings. Relying upon CBOs in that capacity could raise ethics concerns. If a

CBO decides (on its own) to translate any materials for its constituents, or bring interpreters it trusts to our meetings, we cannot object. That is their right.

- Using language identification flashcards to determine appropriate services.
- Establishing a process to obtain feedback on our language assistance measures.

Specific Measures by Language Group

- Spanish:

Written Translation and Oral Interpretation

Vital documents will be translated for each eligible LEP language group in our service area that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be encountered. Translated materials will be placed online and in appropriate public (or private) places accessible to LEP persons. The safe harbor provisions apply to the translation of written documents only, and do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable. When appropriate, translation of any document will be communicated orally in the appropriate language.

In the event that the 5% trigger is reached for a LEP language group that is fewer than 50 persons, written notice will be provided in the primary language of that group of the right to receive competent oral interpretation of vital written materials, free of cost. The most effective method of notice, which could be an ad in the local newspaper or other publication, a radio commercial, or door hangers, will be determined in consideration of the circumstances on the ground and in coordination with language access resource contacts (LARCs).

Staff Support for Language Assistance

- Mountain Mobility staff (including call center staff) will be provided a list of referral resources that can assist LEP persons with written translation and oral interpretation, including the Title VI Officer and any outside consultant contracted to provide language services. This list will be updated as needed to remain current.
- All main offices and vehicles will have on hand a supply of language assistance flashcards and materials translated into the languages of the largest LEP language groups. When encountered by an LEP person, staff (including drivers) should present the individual with a flashcard and let them choose the language. Do not assume you know their preferred language. Drivers are permitted to seek volunteer assistance from other passengers before contacting a referral resource. Document the encounter and report it to the Title VI Coordinator.
- Training: All employees will be instructed on our procedures for providing timely and reasonable assistance to LEP persons. New employee orientation will also explain these procedures to new hires. Staff routinely encountering LEP persons by telephone or in person will receive annual refresher training. All other employees will be reminded of LEP through annual Title VI program acknowledgements (Section 5.0) and basic Title VI trainings (Section 11.0).

Project-Specific LEP Outreach

A project-specific four factor analysis will be conducted for any project being planned or scheduled outreach event limited to a specific geographical area delineated for that activity (i.e., the project study area or outreach area, respectively). Language assistance will be provided in accordance with the measures already outlined, including translating written materials for each LEP language group that is 5% or 1,000, whichever is less, of the project or outreach area population.

Monitoring and Updating the LAP

Monitoring of daily interactions with LEP persons will be continuous, thus assistance techniques may be refined at any time. This LAP will be periodically reviewed to determine if our language assistance measures and staff training are working. Resource availability and feedback from agency staff and the general public will be factors in the evaluation and any proposed updates. Among other practices, this process will include working with LEP community contacts to determine if our employees are responding appropriately to requests made with limited English or in languages other than English, and observing how agency staff responds to requests, including observing drivers or surveying riders. To the best of our ability, we will attempt to never eliminate a successful existing LEP service. Significant LEP program revisions will be approved or adopted by our board or designated official and dated accordingly. LEP data and procedures will be reviewed and updated at least once every three years.

Demographic Request

The following form was used to collect required data on Key Community Contacts and nonelected committee members. A single copy of the "Demographic Request" form is located in Appendix E.

Mountain Mobility is required by Title VI of the Civil Rights Act of 1964 and related authorities to record demographic information on members of its boards and committees. Please provide the following information:

<table>
<tr><td>Race/Ethnicity:
☐ White
☐ Black/African American
☐ Asian
☐ American Indian/Alaskan Native
☐ Native Hawaiian/Pacific Islander
☐ Hispanic/Latino
☐ Other (please specify): _____</td><td>National Origin: (if born outside the U.S.)
☐ Mexican
☐ Central American: _____
☐ South American: _____
☐ Puerto Rican
☐ Chinese
☐ Vietnamese
☐ Korean
☐ Other (please specify): _____</td></tr>
<tr><td>Gender: ☐ Male ☐ Female</td><td rowspan="2">Age:
☐ Less than 18 ☐ 45-64
☐ 18-29 ☐ 65 and older
☐ 30-44</td></tr>
<tr><td>Disability: ☐ Yes ☐ No</td></tr>
<tr><td colspan="2">I choose not to provide any of the information requested above: ☐</td></tr>
</table>

Completed forms will remain on file as part of the public record. For more information regarding Title VI or this request, please contact Mountain Mobility, attn.: Vicki Jennings, at 828.251.6622 or by email at vicki@landofsky.org.

Please sign below acknowledging that you have completed this form.

Thank you for your participation!

Name (print): _____

Signature: _____

Implementation

- Forms will be completed prior to triennial Title VI compliance reviews and remain on file for three years.
- All new and existing members of appointed decision-making boards or committees will be ***required*** to complete this form for reporting purposes.
- If a member, for whatever reason, selects *"I choose not to provide any of the information requested above,"* they will have also ***completed*** the form.
- If a member chooses not to provide any of the information on the form, the Title VI Coordinator will be permitted to indicate that member's race and gender, based on the Coordinator's best guess.
- Data from these forms will be used to complete the Demographic Request Table in Appendix E.
- Once a new member submits this form, the Demographic Request Table for the associated committee will be updated.

Summary of Outreach Efforts Made Since the Last Title VI Program submission

The following format will be used to report all outreach efforts made since our last NCDOT Title VI Compliance Review. All meetings and disseminations of information shall enable collection of information for the table below:

Meeting Date	Meeting Purpose	Target Audience
11/3/2018	Family Caregiver Regional Conference	General Public
11/14/2018	Service Coordinator's Monthly Luncheon	Professionals/Providers
1/10/2019	RAAC (Regional Aging Advisory Committee)	Professionals/Providers
3/10/2019	Senior Services day	Elderly
5/9/2019	Strive Not to Drive Focus - North Buncombe	General Public/Elderly
6/13/2019	WEADD Walk (World Elder Abuse Awareness Day)	General Public
6/27/2019	Successful Aging Day (Sponsor: Council on Aging of Buncombe County)	Elderly
9/5/2019	Healthy Aging Day (Sponsor: YMCA of WNC)	General Public
9/7/2019	Fairview Fall Fling	General Public
9/10/2019	Information Session	Elderly
10/3/2019	Kinship Caregiver Seminar	Professionals/Providers
10/10/2019	Enka-Candler Community Market	General Public
10/23/2019	Volunteer Fair	Elderly/General Public
10/28/2019	Information Meeting	Elderly
11/8/2019	Geriatric Summit	Professionals/Providers
11/15/2019	Coffee and Conversation (YMCA - Enka-Candler)	Elderly

12/4/2019	Land of Sky Regional Council Regional Open House	Public Officials
1/10/2020	Information Meeting	Disabled Adults

Staff Training

All employees will receive basic Title VI training at least once every three years. New hires will receive this training within 15 days of their start date. Basic training will cover all sections of this Plan and our overall Title VI obligations. Staff may receive specialized training on the application of Title VI in their specific work areas. Those who routinely encounter the public, such as office personnel, call center staff, and vehicle drivers, will receive annual refresher training. Trainings will be provided or organized by the Title VI Coordinator, and will often coincide with updates to our nondiscrimination policies and procedures. Records of staff trainings will be remain on file for at least three years (and in personnel files), and will include agendas, sign-in sheets, copies of calendars, and any certificates issued.

Nonelected Boards and Committees

Strategies for Representative Committees

We will seek minority participation and strive for committees that are representative of our constituencies by:

- Openly asking public and small group meeting participants if they would be interested in serving on a committee.
- Seeking referrals from local organizations and key community contacts that serve or represent minorities.
- Exploring different types of committees, such as ad hoc minority- or youth-only Citizen Advisory Committees.
- Outreach efforts and responses (or lack thereof from those asked to serve or refer others) will be documented.

Record-keeping and Reports

Records will be kept to document compliance with the requirements of the Title VI Program. Unless otherwise specified, Title VI-related records shall be retained indefinitely. These records will made available for inspection by authorized officials of the NCDOT and/or FTA. As a subrecipient of FTA funds through NCDOT, we are required to submit a Title VI Program update to NCDOT every three years, the next of which is due in **2024.** Reports on Title VI-related activities and progress to address findings identified in civil rights compliance reviews and assessments may also be submitted on an as-requested basis. It will occasionally be necessary to update this program plan and its component parts (e.g., complaints, Public Involvement, and LEP), applicable documents, and responsible officials. Updates will be submitted to NCDOT for review and approval.

In addition to other items throughout this plan, records and reports due at the time of compliance reviews or investigations will include:

Compliance Reviews

- Title VI Program Plan
- List of civil rights trainings provided or received
- Summaries from any *internal* reviews conducted
- Ads and notices for specific meetings
- Findings from reviews by any other *external* agencies
- Title VI equity analyses and EJ assessments
- Discrimination Complaints Log

Complaint Investigations

- Investigative Reports
- Discrimination complaint, as filed
- List of interviewees (names and affiliations)
- Supporting Documentation (e.g., requested items, photos taken, dates and methods of contact, etc.)

Appendix A

Applicable Nondiscrimination Authorities

During the implementation of this Title VI Program, Buncombe County, for itself, its assignees and successors in interest, is reminded that it has agreed to comply with the following non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.,* 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.),* (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.,* Pub. L. 88-352), (prohibits employment discrimination on the basis of race, color, religion, sex, or national origin);
- 49 CFR Part 26, regulation to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Appendix B

Organizational Chart

Appendix C

NCDOT's Compliance Review Checklist for Transit

I. Program Administration (General Requirements)

Requirement: *FTA C 4702.1B – Title VI Requirements and Guidelines for FTA Recipients, Chapter III – General Requirements and Guidelines.*

Note: Every NCDOT subrecipient receiving any of the FTA Formula Grants listed above must complete this section.

Requested Items **(Please attach electronic documents (.pdf, .doc, etc.) or provide links to online versions)**	**Completed**
1. A copy of the recipient's *signed* NCDOT's Title VI Nondiscrimination Agreement	☐
2. Title VI Policy Statement *(signed)*	☐
3. Title VI Notice to the Public, including a list of locations where the notice is posted	☐
4. Type the name and title of your Title VI Coordinator and attach a list of their Title VI duties **Name/Title:**	☐
5. Title VI Complaint Procedures (i.e., instructions to the public regarding how to file a Title VI discrimination complaint)	☐
6. Title VI Complaint Form	☐
7. List of transit-related Title VI investigations, complaints, and lawsuits (i.e., discrimination complaints log)	☐
8. Public Participation Plan, including information about outreach methods to engage traditionally underserved constituencies (e.g., minorities, limited English proficient populations (LEP), low-income, disabled), as well as a summary of outreach efforts made since the last Title VI Program submission	☐
9. Language Assistance Plan for providing language assistance to persons with limited English proficiency (LEP), based on the DOT LEP Guidance, which requires conducting four-factor analyses	☐
10. A table depicting the membership of non-elected committees and councils, the membership of which is selected by the recipient, broken down by race, and a description of the process Mountain Mobility uses to encourage the participation of minorities on such committees	☐
11. A copy of board meeting minutes, resolution, or other appropriate documentation showing the board of directors or appropriate governing entity or official(s) responsible for policy decisions ***reviewed and approved*** the Title VI Program	☐
12. A description of the procedures Mountain Mobility uses to ensure nondiscriminatory administration of programs and services	☐
13. **If you pass through FTA funds to other organizations**, include a description of how you monitor your subrecipients for compliance with Title VI, and a schedule for your subrecipients' Title VI Program submissions. ➢ **No Subrecipients** ☐	☐
14. A Title VI equity analysis **if you have constructed or conducted planning for a facility**, such as a vehicle storage facility, maintenance facility, operation center, etc. ➢ **No Facilities Planned or Constructed** ☐	☐

15. Copies of environmental justice assessments conducted for **any construction projects during the past three years** and, if needed based on the results, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities ➢ **No Construction Projects** ☐	☐
16. If the recipient has undergone a Title VI Compliance Review in the last 3 years, please indicate the year of the last review and who conducted it. **Year/Mountain Mobility:**	☐

II. Transit Providers

Requirement: *FTA C 4702.1B, Chapter IV – Requirements and Guidelines for Fixed Route Transit Providers.*

Note: All NCDOT subrecipients that provide ***fixed route*** public transportation services (e.g., local, express or commuter bus; bus rapid transit; commuter rail; passenger ferry) must complete this section.

➢ **Not Applicable** ☐ (**Check this box if you do not provide *fixed route* services, and skip questions 17 and 18.** This section does not apply to you if you ***only*** provide demand response services.)

Requested Items **(Please attach electronic documents (.pdf, .doc, etc.) or provide links to online versions)**	**Completed**
17. Service standards (**quantitative measures**) developed for *each specific fixed route mode* that the recipient provides (standards may vary by mode) must be submitted for each of the following indicators:	
• Vehicle load for each mode *(Can be expressed as the ratio of passengers to the total number of seats on a vehicle. For example, on a 40-seat bus, a vehicle load of 1.3 means all seats are filled and there are approximately 12 standees.)*	☐
• Vehicle headway for each mode *(Measured in minutes (e.g., every 15 minutes), headway refers to the amount of time between two vehicles traveling in the same direction on a given line or combination of lines. A shorter headway corresponds to more frequent service. Service frequency is measured in vehicles per hour (e.g., 4 buses per hour).)*	☐
• On time performance for each mode *(Expressed as a percentage, this is a measure of runs completed as scheduled. The recipient must define what is considered to be "on time." Performance can be measured against route origins and destinations only, or against origins and destinations as well as specified time points along a route.)*	☐
• Service availability for each mode *(Refers to a general measure of the distribution of routes within a transit provider's service area, such as setting the maximum distance between bus stops or train stations, or requiring that a percentage of all residents in the service area be within a one-quarter mile walk of bus service.)*	☐
18. Service policies (**system-wide policies**) adopted to ensure that service design and operations practices do not result in discrimination on the basis of race, color or national origin, must be submitted for each of the following:	
• Transit amenities for each mode *(e.g., benches, shelters/canopies, printed materials, escalators/elevators, and waste receptacles. **NOTE:** Attach this information only if you have decision-making authority over siting transit amenities or you set policies to determine the siting of amenities.)*	☐
• Vehicle assignment for each mode *(Refers to the process by which transit vehicles are placed into service throughout a system. Policies for vehicle assignment may be based on the type or age of the vehicle, where age would be a proxy for condition, or on the type of service offered.)*	☐

Appendix D

Annual Education and Acknowledgment Form

Title VI Nondiscrimination Policy
(Title VI and related nondiscrimination authorities)

No person shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a Federal-aid recipient.

All employees and representatives of **Land of Sky Regional Council and those conducting business on behalf of Buncombe County Community Transportation (dba Mountain Mobility)** are expected to consider, respect, and observe this policy in their daily work and duties. If any person approaches you with a civil rights-related question or complaint, please direct him or her to **Vicki Jennings, Title VI Coordinator, at 828.251.6622.**

Acknowledgement of Receipt of Title VI Program

I hereby acknowledge receipt of the **Land of Sky Regional Council/Mountain Mobility** Title VI Program and other nondiscrimination guidelines. I have read the Title VI Program and am committed to ensuring that no person is excluded from participation in or denied the benefits of the Agency's programs, policies, service and activities on the basis of race, color, national origin, sex, age or disability, as provided by Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes.

_____ _____

Signature Date

Appendix E

Demographic Request Form

Buncombe County Community Transportation
Mountain Mobility

Title VI of the Civil Rights Act of 1964 requires North Carolina Department of Transportation to gather statistical data on participants and beneficiaries of the agency's federal-aid highway programsand activities. The North Carolina Department of Transportation collects information on race, color, national origin and gender of the attendees to this public meeting to ensure the inclusion of all segments of the population affected by a proposed project.

The North Carolina Department of Transportation wishes to clarify that this information gathering process **is completely voluntary** and that you are not required to disclose the statistical data requested in order to participate in this meeting. This form is a public document.

Project Name:			Date:
Meeting Location:			
Name (please print)			Gender: ___ Male ___ Female
General ethnic identification categories (check one):			
___ Caucasian		___ Hispanic American	___ American Indian/Alaskan Native
___ African American		___ Asian/Pacific Islander	Other:
			National Origin:

Thank you for your cooperation.

After you complete this form, please either:

- Return it to the person who gave it to you at this meeting; or
- Mail it to Mountain Mobility, Land of Sky Regional Council, 339 New Leicester Highway,Suite 140, Asheville, NC 28806 OR by email to vicki@landofsky.org

Appendix F

Population Locations

Plan Review and Approval

On behalf of the Board of Commissioners for Buncombe County, I hereby acknowledge receipt of the Title VI Nondiscrimination Plan for Mountain Mobility, Buncombe County's community transportation program. We, the Board of Commissioners, have ***reviewed and hereby approve*** this Plan. We are committed to ensuring that all decisions are made in accordance with the nondiscrimination guidelines of this Plan, to the end the no person is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any Mountain Mobility transportation services and activities on the basis of race, color, national origin, sex, age, religion, or disability, as protected by Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Federal Transit Administration.

_____ _____

Signature of Buncombe County Commission Chair DATE

Title VI Nondiscrimination Agreement between the North Carolina Department of Transportation and Buncombe County

In accordance with DOT Order 1050.2A, Buncombe County assures the North Carolina Department of Transportation (NCDOT) that no person shall, on the ground of **race, color, national origin, sex, age, or disability**, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and related nondiscrimination authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity undertaken by Mountain Mobility .

Further, Buncombe County / Mountain Mobility hereby agrees to:

1. Designate a Title VI Coordinator that has a responsible position within Buncombe County and easy access to the Accountable Executive (AE) of Buncombe County.
2. Issue a policy statement, signed by the Accountable Executive of Buncombe County, which expresses a commitment to the nondiscrimination provisions of Title VI and related applicable statutes. The signed policy statement shall be posted and circulated throughout Buncombe County and to the general public, and published where appropriate in languages other than English. The policy statement will be re-signed when there is a change of Accountable Executive.
3. Insert the clauses of the contract language from Section 6.1 in every contract awarded by Buncombe County. Ensure that every contract awarded by Buncombe County's contractors or consultants also includes the contract language.
4. Process all and, when required, investigate complaints of discrimination consistent with the procedures contained within this Plan. Log all complaints for the administrative record.
5. Collect statistical data (race, color, national origin, sex, age, disability) on participants in, and beneficiaries of, programs and activities carried out by Buncombe County.
6. Participate in training offered on Title VI and other nondiscrimination requirements. Conduct or request training for employees or Buncombe County's subrecipients.
7. Take affirmative action, if reviewed or investigated by NCDOT, to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless reasonable provisions are granted by NCDOT.
8. Document all Title VI nondiscrimination-related activities as evidence of compliance. Submit information and reports to NCDOT on a schedule outlined by NCDOT.

THIS AGREEMENT is given in consideration of, and for the purpose of obtaining, any and all federal funds, grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding.

Authorized Signature

Date

Brownie Newman
Chairman, Buncombe County Board of Commissioners

MOUNTAIN MOBILITY TITLE VI PLAN

Presented by

William High

Planning Development Department
Community Development Division

September 21, 2021

TITLE VI PLAN PURPOSE

- Ensure decisions are made in accordance with nondiscrimination guidelines
- Ensure no person is excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any Mountain Mobility transportation services and activities on the basis of race, color, national origin, sex, age, religion, or disability

TITLE VI PLAN IMPLEMENTATION

- Provide a Title VI Coordinator
- Circulate a Title VI Policy Statement of commitment to Title VI
- Include nondiscrimination clauses in Mountain Mobility contracts
- Process, investigate, and log all complaints of discrimination by Mountain Mobility
- Collect Mountain Mobility customer statistical data
- Mountain Mobility staff participation in regular Title VI training
- Document Title VI nondiscrimination-related activities

TITLE VI PLAN KEY COMPONENTS

- Description of Programs and Services
- Title VI Coordinator
- Contract Administration
- External Discrimination Complaints
- Service Area Population Characteristics
- Public Involvement
- Staff Training
- Record Keeping and Reports

REQUESTED BOARD ACTION

- Adopt the Resolution Amending the Title VI Plan for Mountain Mobility, which further authorize action by the Chairperson, to remain compliant with NCDOT requirements and federal regulations.

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

New Business

Department: Budget **Presenter(s):** Jennifer Barnette, Budget

Contacts: Tina Thorpe, Buncombe County Schools
Jennifer Barnette, Budget

Subject: State Lottery Project Awards – BCS – Repaving Projects

Brief Summary:

These projects for Buncombe County Schools have been awarded for NC Education Lottery dollars in the amount of $350,000 by the State of North Carolina. The funds will be for campus repaving at:

- Leicester Elementary School $200,000
- Fairview Elementary School $100,000
- Cane Creek Middle School $50,000

These applications were approved by the Board of Commissioners at their September 7th meeting.

Recommended Motion & Requested Action:

Approve budget amendment

County Manager's comments and Recommendation:

County Manager recommends as presented.

ORDINANCE #21-09-25

BUNCOMBE COUNTY, NORTH CAROLINA
Public School ADM Capital Fund Project Ordinance

BOARD MEETING DATE: September 21, 2021

WHEREAS, the Budget Director recommends and the Board now desires to amend the FY2021-2022 Projects 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 FY2021-2022 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

ADOPTED this 21st day of September, 2021.

Requesting Department: Budget
Project Name: State Lottery Projects - BCS - Repaving Projects

Description:
These projects for Buncombe County Schools have been awarded for NC Education Lottery dollars in the amount of $350,000 by the State of North Carolina. The funds will be for campus repaving at Leicester Elementary School, Fairview Elementary School, and Cane Creek Middle School.

These applications were approved by the Board of Commissioners at their September 7th meeting. All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Ordinance, that are in conformity with and in furtherance of the purposes of this Ordinance as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.

Funding Source:
NC Education Lottery Funding - Public School Building Capital Fund

Exhibit A:	Increase (Decrease)	
Account Description	**Revenues**	**Expenditures**
Fund 335 - Restricted Intergovernmental	$ 350,000	
Fund 335 - BCS - Cane Creek Middle School Repaving		$ 50,000
Fund 335 - BCS - Fairview Elementary School Repaving		$ 100,000
Fund 335 - BCS - Leicester Elementary School Repaving		$ 200,000
TOTAL	$ 350,000	$ 350,000

ATTEST:

Tamara Laymon
Clerk to the Board

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE:

By: Brownie Newman
Chairman of the Board

PUBLIC SCHOOLS OF NORTH CAROLINA
DEPARTMENT OF PUBLIC INSTRUCTION | Mark Johnson, *Superintendent of Public Instruction*
WWW.NCPUBLICSCHOOLS.ORG

August 30, 2021

MEMORANDUM

To: Don Warn, Buncombe County — Don.Warn@buncombecounty.org
Tina Thorpe, Buncombe County Schools — tina.thorpe@bcsemail.org

From: Dennis Hilton, School Planning Consultant
NC Department of Public Instruction

The below listed Application(s) have been approved for transferring the following funds from the North Carolina Education Lottery Fund, Need Base Lottery Fund, and/or ADM Fund, through the Public School Building Capital Fund:

	Project Title	ADM Fund	Lottery Fund	Needs Based Lottery Fund
1.	**Liecester ES - Campus repaving**	**$0.00**	**$200,000.00**	**$0.00**
2.	**Fairview ES - Campus repaving**	**$0.00**	**$100,000.00**	**$0.00**
3.	**Cane Creek MS - Campus repaving**	**$0.00**	**$50,000.00**	**$0.00**
	Total this month:	**$0.00**	**$350,000.00**	**$0.00**

The funds, as noted above, will be transferred to the county disbursing account in the State Treasurer's Office on the last day of this month and will be available for drawdown on the first or second working day of next month. Questions concerning the disbursing account, checks, signature cards, etc. should be directed to Mr. Mark Carlson, Disbursing Account Services Supervisor, in the State Treasurer's Office: Phone Number 919-814-3904.

A final report is required showing the actual state and local expenditures and the actual completion date. If the expenditures of state funds are less than the amount approved and transferred to the disbursing account in the State Treasurer's Office, request that the balance be released from the disbursing account for re deposit into the county account in the Public School Building Capital Fund for reallocation to additional construction projects.

If you have any questions, please do not hesitate to call.

Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 9/21/2021

New Business

Departments:
Family Justice Center & Budget

Presenter(s):
Paulina Mendez, Justice Services
Jennifer Barnette, Budget

Contact(s): Paulina Mendez, Family Justice Division Manager
Tiffany Iheanacho, Justice Services Director

Subject: Family Justice Center Grant Funding

Brief Summary:
The Family Justice Center (FJC) has two grants expiring 9/30/2021:

1) Governor's Crime Commission (GCC) 2-year award of $1,182,878
2) Department of Justice (DOJ) Office of Violence Against Women (OVW) 3-year award of $450,000

The FJC reapplied for the GCC award and received a partial, 2-year award of $874,097. A total of $1,132,510 is needed to maintain existing FJC service levels, requiring a 24-month county contribution of $258,413. The 9-month, FY2022 cost is $96,905. The remaining $161,508 will be requested as part of the FY2023 and FY2024 budget processes.

The FJC reapplied for the DOJ OVW award, but has not received an award notification. Award notification is expected by September 30, 2021, after which we will bring an additional budget amendment to the board. The 3-year award is anticipated to be $464,494, and the 3-year cost of the services is $802,367, requiring a 3-year county match of $337,873. This will be requested at a later date.

This item includes:

1) Budget amendment to establish the GCC grant budget of $1,132,510
2) Budget amendment to establish a $96,905 transfer of county funds from appropriated fund balance to the GCC Grant. This covers the 9-month, FY2022 county contribution

$96,905 in new county funds are requested.

Recommended Motion & Requested Action:

1) Approve budget amendments

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

ORDINANCE #21-09-26

BUNCOMBE COUNTY, NORTH CAROLINA
Grant Projects Ordinance

BOARD MEETING DATE: September 21, 2021

WHEREAS, the Budget Director recommends and the Board now desires to amend the FY2021-2022 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 FY2021-2022 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

ADOPTED this 21st day of September, 2021.

Granting Agency:	NC Governor's Crime Commission (GCC)
Grant Name:	Family Justice Center (FJC) GCC - FY2022

Description:
In FY2020, the Buncombe County FJC received a 2-year award through the GCC of $1,182,878, which expires 9/30/2021. The FJC has been awarded a new 2-year award of $874,097, beginning 10/1/2021. Although the amount is reduced, Buncombe County is the only FJC in the state to receive an award this cycle. A total of $1,132,510 is needed to maintain existing FJC service levels, requiring a county contribution of $258,413 over 24 months. The county contribution will be covered in the FY22, FY23, and FY24 general fund budgets.

The funding will continue to provide trauma-informed and survivor-centered programming for victims of domestic and sexual violence, including funding for 9 contract positions that provide intake, case management, court advocacy, child supervision, legal support, & counseling services. The award requires a 10% county match, which is met by an in-kind donation of office space and a portion of the FJC Division Manager's salary. The requested county contribution is in excess of the required 10% match.

This amendment establishes the grant budget of $1,132,510. An accompanying General Fund amendment establishes the FY22 transfer of $96,905 in new county funds, which is 9 months of the county contribution.

Funding Source:
$874,097 awarded through Victim of Crime Act (VOCA) Funds
$258,412 in county funds (FY2022 through FY2024). $96,905 in appropriated fund balance in FY2022

Exhibit A:	**Increase (Decrease)**	
Account Description	**Revenues**	**Expenditures**
Fund 327 - FJC GCC Grant FY2022	$ 1,132,510	$ 1,132,510
TOTAL	$ 1,132,510	$ 1,132,510

ATTEST:

Tamara Laymon
Clerk to the Board

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE:

By: Brownie W
Chairman of the Board

ORDINANCE #21-09-27

BUNCOMBE COUNTY, NORTH CAROLINA
General Fund

BOARD MEETING DATE: September 21, 2021

WHEREAS, the Budget Director recommends and the Board now desires to amend the FY2021-2022 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 FY2021-2022 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

ADOPTED this 21st day of September, 2021.

Requesting Department:	Family Justice Center (FJC)
Budget Amendment Item:	County Contribution to FJC Governor's Crime Commission Grant

Description:
In FY2020, the Buncombe County FJC received a 2-year award through the GCC of $1,182,878, which expires 9/30/2021. The FJC has been awarded a new 2-year award of $874,097, beginning 10/1/2021. Although the amount is reduced, Buncombe County is the only FJC in the state to receive an award this cycle. A total of $1,132,510 is needed to maintain existing FJC service levels, requiring a county contribution of $258,413 over 24 months. The county contribution will be covered in the FY22, FY23, and FY24 general fund budgets.

The funding will continue to provide trauma-informed and survivor-centered programming for victims of domestic and sexual violence, including funding for 9 contract positions that provide intake, case management, court advocacy, child supervision, legal support, & counseling services. The award requires a 10% county match, which is met by an in-kind donation of office space and a portion of the FJC Division Manager's salary. The requested county contribution is in excess of the required 10% match.

This amendment establishes the FY22 transfer of $96,905 in new county funds, which is 9 months of the county contribution. An accompanying amendment establishes the grant budget of $1,132,510.

Funding Source:
$874,097 awarded through Victim of Crime Act (VOCA) Funds
$258,412 in county funds (FY2022 through FY2024). $96,905 in appropriated fund balance in FY2022

Exhibit A:	**Increase (Decrease)**	
Account Description	**Revenues**	**Expenditures**
Fund 100 - Appropriated Fund Balance	$ 96,905	
Fund 100 - Transfers to Other Funds		$ 96,905
TOTAL	$ 96,905	$ 96,905

ATTEST:

Tamara Laymon
Clerk to the Board

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE:

By: Brownie W
Chairman of the Board

FJC Update & Budget Request

Presented by

Tiffany Iheanacho & Paulina Mendez

Justice Services

Celebrating 5 Years

OUR VOICE
Victims • Outreach • Intervention • Counseling • Education

MISSION HEALTH

mountain
child advocacy center
hope help healing

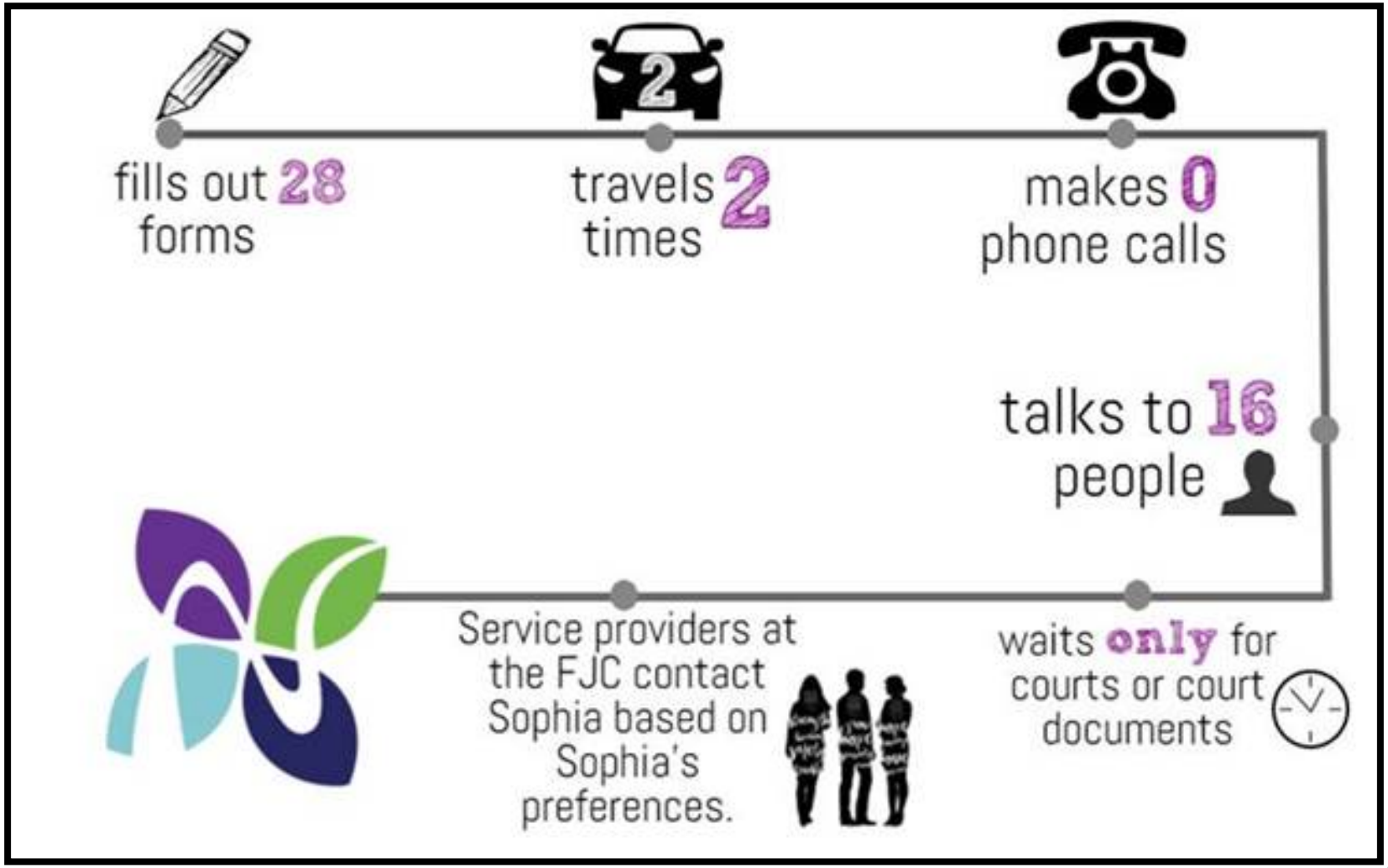
Helpmate
a domestic violence agency
Safety • Shelter • Support

eliminating racism
empowering women
ywca
Asheville

PISGAH
LEGAL SERVICES

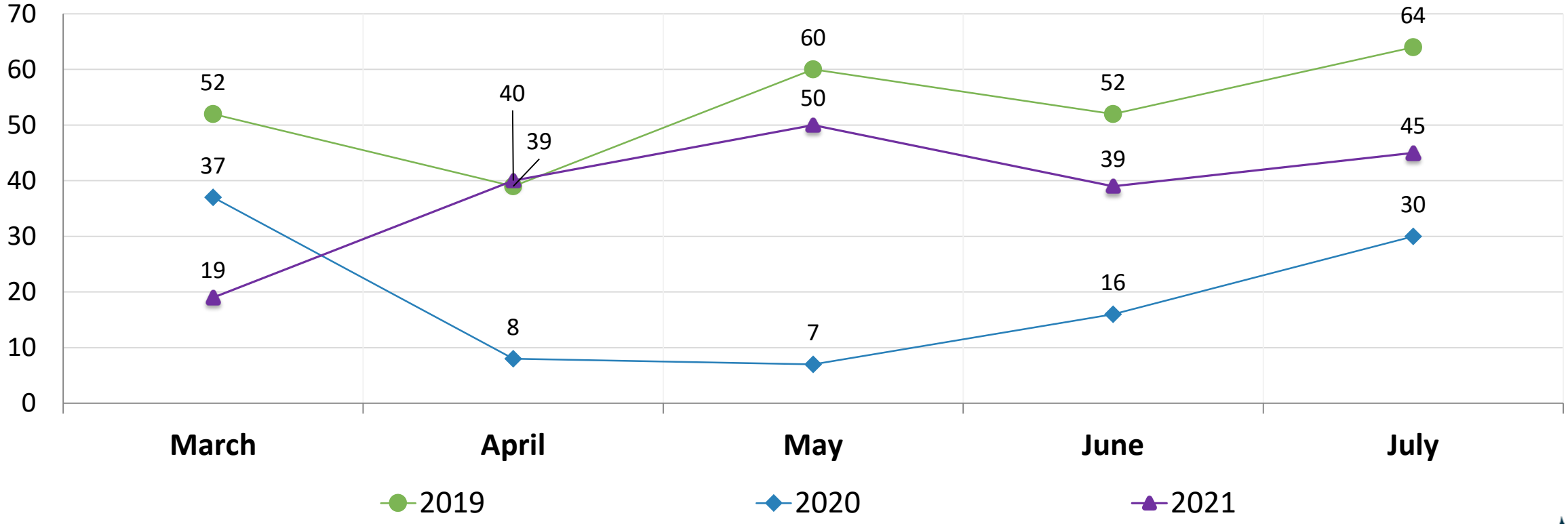
Before the FJC…

After the FJC...

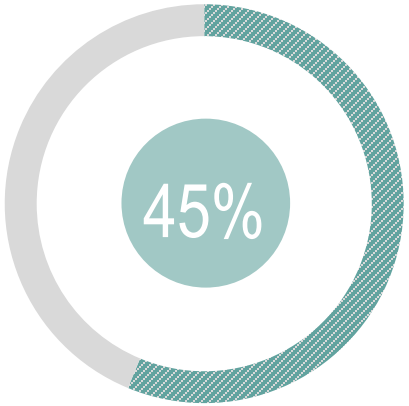


COVID-19 Impacts

Intakes – 2019 – 2021

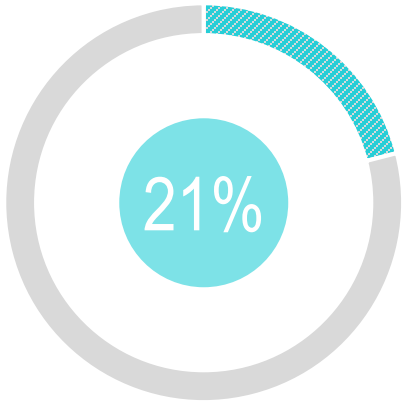


Complexity of Services



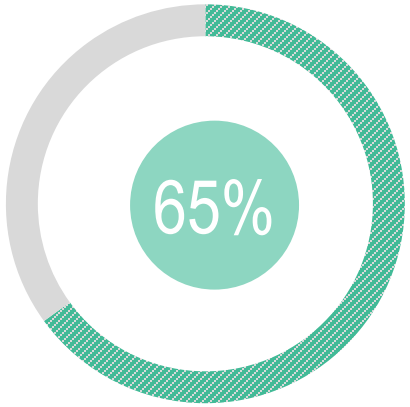
2+ Agencies, 2019

Survivors accessing services from 2 or more agencies during their initial visit
January – June 2019



2+ Agencies, 2020

Survivors accessing services from 2 or more agencies during their initial visit
January – June 2020



2+ Agencies, 2021

Survivors accessing services from 2 or more agencies during their initial visit
January – June 2021

Current Impact of Service Delivery

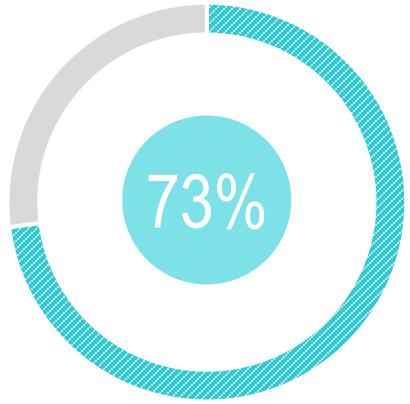
January – June 2021

Decreased Fear & Anxiety

% of survivors who completed a survey that reported a decreased level of fear and anxiety after intake

Safety Plan

% of survivors who completed a survey that have a safety plan



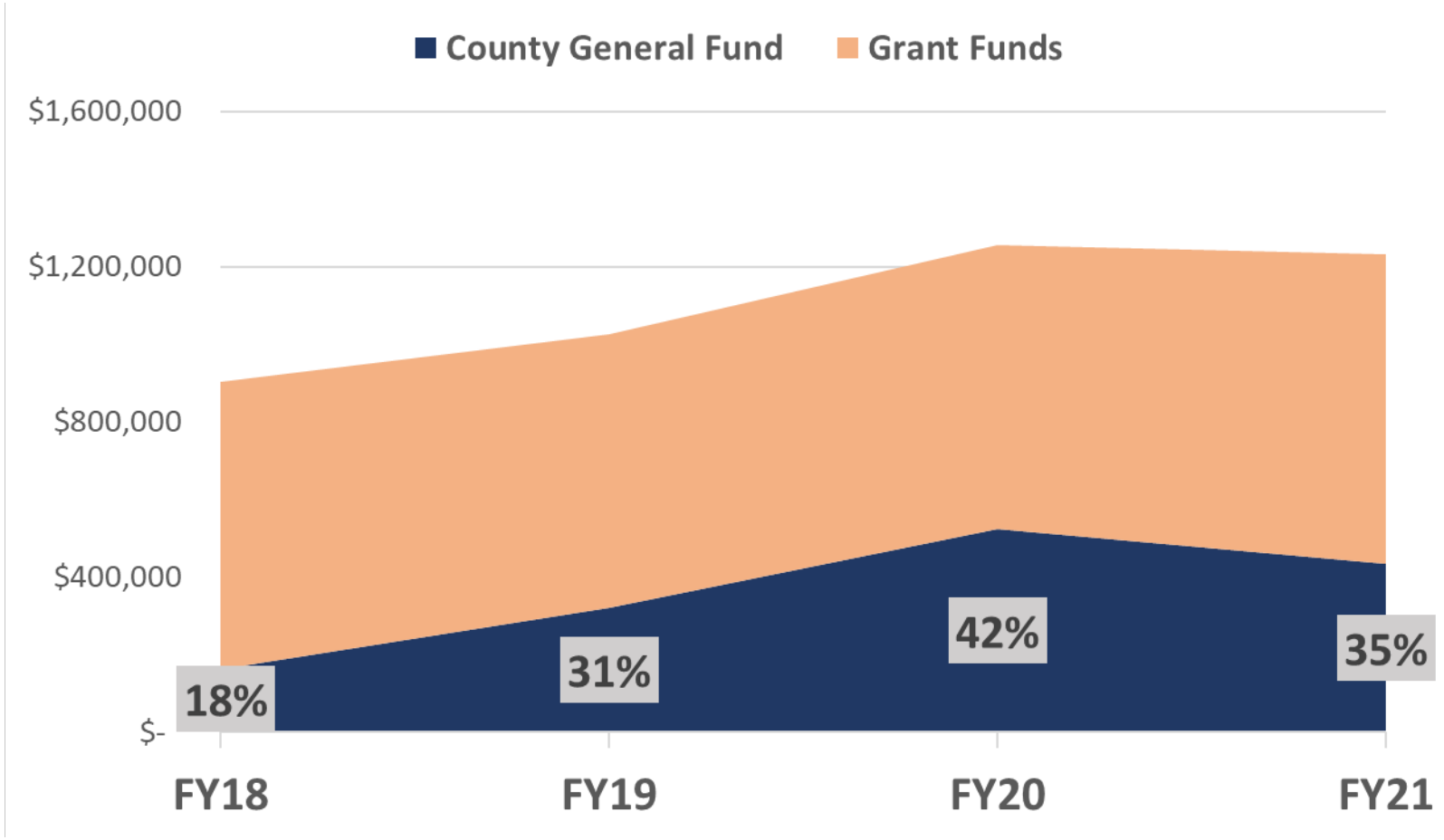
SA Arrests

Sexual assault arrests are up by 73% when compared to July – December 2020

Funding Sources

- Buncombe County provides in-kind space at 35 Woodfin for on-site partners
- Family Justice Program Manager position and operational funds for office and meeting supplies, janitorial services, and some training provided by the County
- Family Justice Center Cost Center provides contracts for Batterer Intervention Services, Crisis Services, and the Lethality Assessment Protocol program
- Department of Justice (DOJ) federal funding through the Office of Violence Against Women (OVW) would fund 3 contract positions, 1 Sheriff's Deputy, training, travel, and travel vouchers for survivors – have received funding since 2015
- Victims of Crime Act (VOCA) federal funding through the Governor's Crime Commission (GCC) funds 9 contract positions, training, travel, software, and emergency survivor snacks – have received grant since 2015

FJC Funding by Source



Current Landscape

- Submitted for renewal for both GCC and DOJ grants (~$1.7 million)
- Delays - Awaiting response from the DOJ OVW Grant, expected in October
- VOCA Funding Gap 2021 – Federal Level Funding Gap
  - Received reduced VOCA GCC Award for 10/1/2021 – 6/30/2023
  - $874 thousand of requested $1.25 million
  - Only FJC in NC to receive VOCA funding this cycle
- H.R. 1652, “VOCA Fix” signed into law July 2021
- Critical funding reduction set for October 1, 2021

DOJ Impacts

- 1 Intake Specialist (Helpmate Contracted Position)
- 1 Bilingual Intake Specialist (Helpmate Contracted Position)
- 1 Sheriff's Deputy (BCSO)
- 1 Trauma-Informed Legal Assistant (DA Contracted Position)
- Trauma-Informed Training for Staff
- Travel Vouchers/Rideshare Reimbursement for Survivors

FJC Contracted Positions Impacted by GCC Cuts

- 2 Intake Specialists (Helpmate)
- 1 Community Case Manager (Helpmate)
- 1 Counselor/Case Manager (Helpmate)
- 1 Counselor (Our VOICE)
- 1 Court Advocate (Our Voice)
- 1 Attorney (Pisgah Legal Services)
- 1 Legal Assistant (Pisgah Legal Services)
- 1 Onsite Child Supervision Provider (YWCA)

~23% reduction to each position resulting in a ~75 less hours of FJC specific services provided to clients a week

Impact to Services

Helpmate Intake Specialist

170 Survivors, 30 Children

Unable to provide a gateway to FJC-based services for 170 survivors and 30 children

170 Emergency Safety Plans

Provide 170 less emergency safety plans to address immediate risks

65%, 2+ Agencies

Unable to adequately assist the 65% of survivors seeking more than one service from on-site agencies same day

Impact to Services

Helpmate Community Case Manager

320 Survivors of IPV Not Served

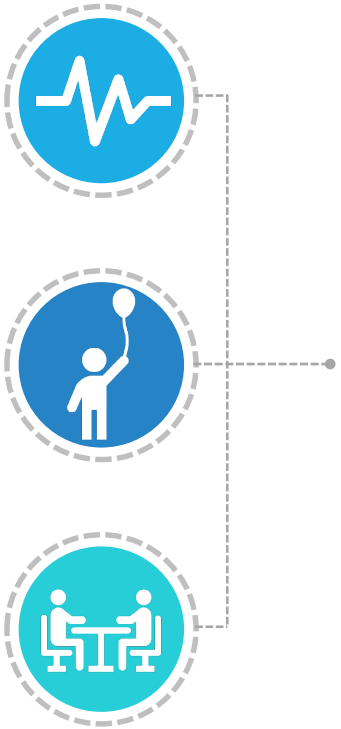
91% of which are at high risk of lethal danger from their abusive partner

90 Children

90 children impacted by DV unable to have support, almost all of which are concurrently served by CPS

710 Case Management Sessions

Unable to meet survivors for 710 case management sessions



Assistance to 240 Survivors

Unable to provide assistance to 240 survivors to identify goals

500 Self-Identified Goals

Unable to assist survivors in meeting 500 of their self-identified goals to address needs such as housing, transportation, childcare, etc.

610 Safety Plans

Unable to create 610 safety plans with survivors specific to abuser generated safety risks

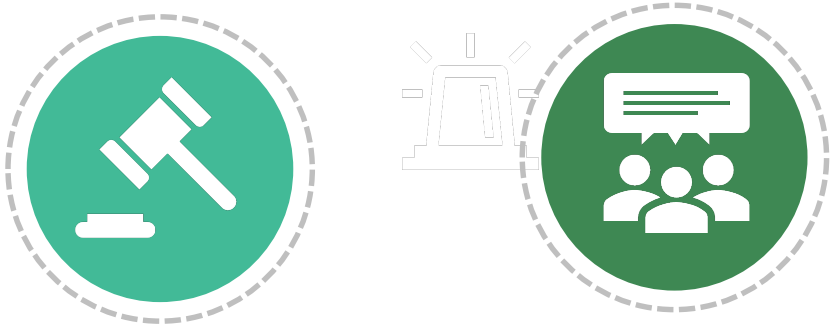
Impact to Services

Our VOICE

Court Advocate & Outreach Counselor

30 Less Survivors Served

30 survivors of sexual violence seeking assistance with law enforcement and legal advocacy at the FJC and in court will be not served (e.g., court accompaniment, filing for protective orders, applying for Victims Compensation) per year



40 Less Survivors Served

40 survivors of sexual violence (adult survivors of childhood sexual abuse and recent survivors of sexual violence) seeking mental health counseling will be unable to access individual and group counseling provided through evidence-based modalities per year

Impact to Services

Pisgah Legal Services
Attorney & Legal Assistant

46 Clients

46 clients not being served per year. 1 less day of consultations, screening calls, and meeting with survivors, and attorney legal advice and representation in court per week

Impact to Services

YWCA of Asheville

On-site Child Supervision

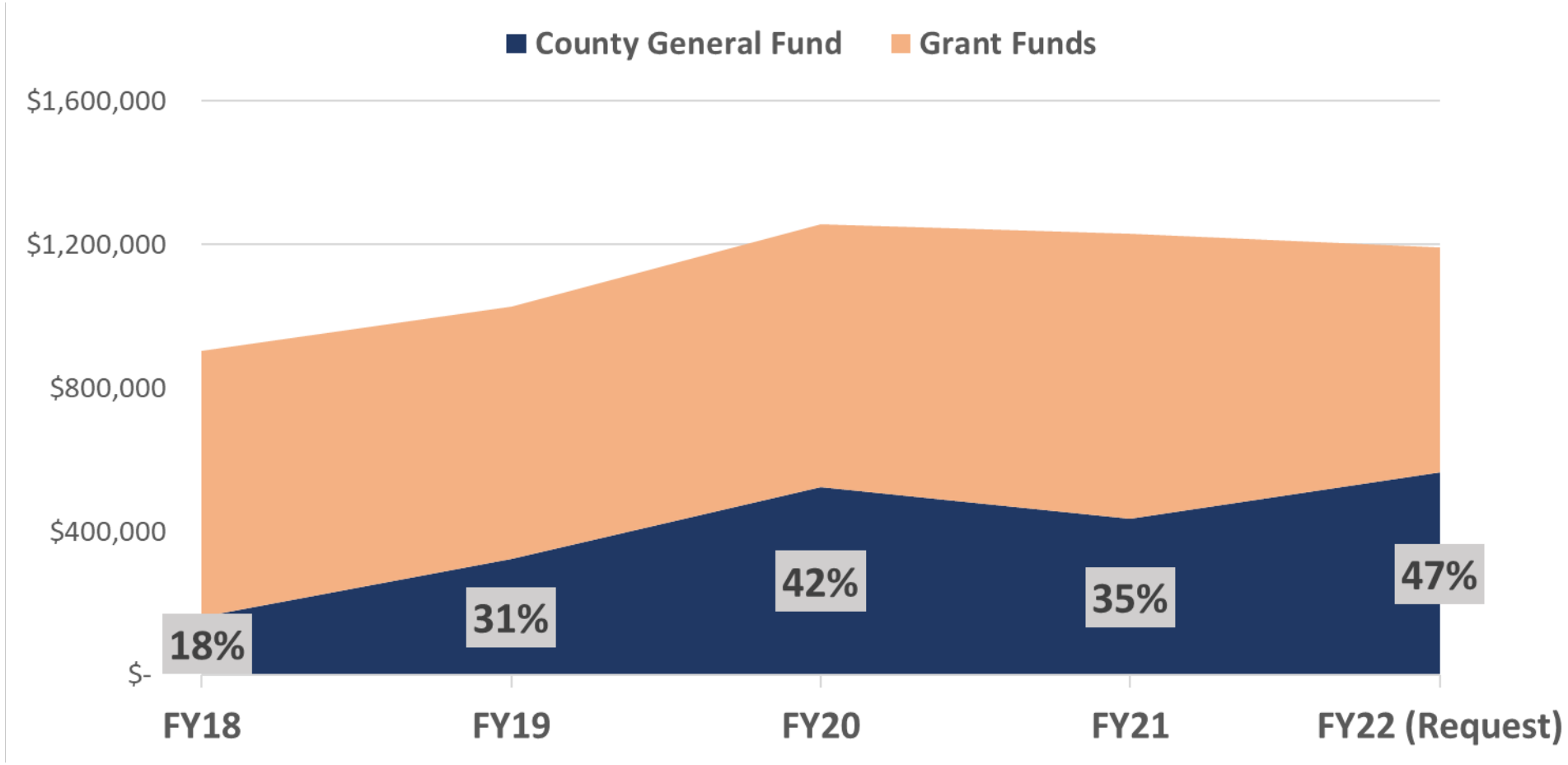
1 Less Day

1 less day of being able to offer on-site child supervision per week, which increases accessibility to services at the FJC

Buncombe County
Family Justice Center
A Path to Strength, Safety & Hope

We are actively interrupting intergenerational trauma

FJC Funding by Source



Requested Board Action

DOJ Grant FY2022

- **No action at this time**

GCC Grant FY2022

1. **Approve budget amendment** to establish grant budget ($1,132,510)

2. **Approve budget amendment** to appropriate $96,905 in fund balance and transfer to the GCC grant. This covers the 9-month, FY2022 county contribution