

THIS AGREEMENT made this the 1st day of July, 2022, (hereinafter referred to as Agreement) by and between **BUNCOMBE COUNTY** (hereinafter referred to as County) and **CITY OF ASHEVILLE**, a municipal corporation under the laws of the State of North Carolina (hereinafter referred to as City):

WHEREAS, County is the recipient of federal and/or state funds through the North Carolina Department of Transportation Integrated Mobility Division (hereinafter NCDOT IMD); and

WHEREAS, Buncombe County's Community Transportation System, Mountain Mobility (hereinafter referred to as Mountain Mobility), provides human service, paratransit, rural general public, deviated fixed route, and other transportation services in a consolidated service design in accordance with policies and procedures set forth by the NCDOT IMD for Community Transportation Programs; and

WHEREAS, County operates and/or contracts with service providers to operate Mountain Mobility; and

WHEREAS, City desires to purchase transportation services through Mountain Mobility in order to provide effective, quality ADA Complementary Paratransit transportation to its authorized passengers.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, County and City agree as follows:

Section 1. Duties of County. County shall:

a. Grant Management.

- (1) Prepare and submit to NCDOT IMD applications for grants for which County is eligible in order to support the administrative, operational, and capital needs of Mountain Mobility;
- (2) Provide the local match share of NCDOT IMD provided and County accepted grant funds for administrative and capital expenses;
- (3) Provide planning and program development services associated with grant management, contract management, planning studies, grant reporting, project-related reporting, and development of new and additional service options and mobility choices; and
- (4) Maintain financial and other required documentation.

b. Service Provision.

- (1) Provide supervision, recruitment, promotion, training, and management of qualified personnel including, but not limited to, management, vehicle operators, dispatchers, administration, and personnel required to support operations, mobility management and administrative services;
- (2) Provide operations compliant with federal, state, and local laws and ordinances governing vehicle licensure, vehicle operator licensure, operations, insurance, and other standards and specifications as set forth by County;
- (3) Provide mobility management services including accepting reservation calls, scheduling trips, assigning trips (to vehicles, vehicle operators, and service providers as may be applicable), and developing trip manifests;
- (4) Provide administrative services including certifying and registering passengers, coordinating funding sources (to use the most appropriate funding source based on eligibility), determining special needs of passengers, monitoring and assessing service performance (to ensure compliance with applicable laws, regulations, standards and specifications), responding satisfactorily to customer service concerns or complaints, and billing and collection services;
- (5) Provide vehicles, facilities, office space, vehicle parking, vehicle maintenance, vehicle cleaning, fuel, materials and supplies;
- (6) Provide required insurance to minimum specified amounts and name the City as an additional named insured for secured liability insurance;
- (7) Collect applicable fares;

- (8) Comply with all applicable service standards, specifications, and regulatory requirements set forth in Exhibit A; and
- (9) Reimburse all service providers for services provided through Mountain Mobility in accordance with the terms and conditions of its agreement(s) with each Service Provider.

c. City ADA Complementary Paratransit Authorization.

- (1) Provide services under this Agreement only to passengers authorized by City, or by Mountain Mobility on behalf of City (hereinafter Authorized Passenger); and
- (2) Provide services to one approved attendant or guest, or minor children, whom shall be allowed to ride with an Authorized Passenger free of charge.

d. Billing and Establishing Rates.

- (1) Submit to City, on or before the tenth (10th) day of each month, a monthly invoice based on the billing rate per shared service mile for the cost transportation services rendered to Authorized Passengers during the previous month, including no-show and not-ready trips documented for authorized passengers;
- (2) Submit to City, a notice of any rate change at least thirty (30 days) prior to the rate change;
- (3) Establish rates no greater than needed to defray the fully allocated cost of providing services through Mountain Mobility; and
- (4) Provide services at the rate of **\$2.38** per shared service mile effective July 1, 2022.

e. Hours and Service Area.

- (1) Provide transportation service within City limits as well as any area outside of City limits which is within ¼ mile of City fixed-route transit;
- (2) Provide transportation service on all operating days and associated hours of City fixed-route transit operations (specifically excluding Christmas Day); and
- (3) Provide administrative services weekdays from 8:00 a.m. to 5:00 p.m. and by voicemail on holidays and weekends.

f. Maintenance of Record.

- (1) Keep and maintain good and proper business records of all services and charges provided for under this Agreement;
- (2) Provide City all information necessary or required for federal, state, and other reports, financial and cost allocations, budgets, performance reports, and other related documentation needs; and
- (3) Make available to City all books and records maintained by County or its Service Providers pertaining to this Agreement for the purpose of inspection or audit during normal business hours and upon reasonable notice.

g. Non-Discrimination.

- (1) Not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement;
- (2) Carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation assisted contracts; and
- (3) Understand that failure by County to carry out these requirements is material breach of Agreement, which may result in the termination of this Agreement.

Section 2. Duties of City. City shall:

- a. City ADA Complementary Paratransit Passenger Authorization. Provide, or require Authorized Passengers provide, by 5:00 p.m. the day prior to the day service is needed information necessary to deliver services including, but not limited to, passenger name(s), telephone number(s), location/time of pickups/drop-offs, and any special needs.

b. Appeals, Clarifications and Challenges.

- (1) Review and address any appeal, clarification, or challenge to eligibility or certification processes or other questions arising relative to the provision of ADA Complementary Paratransit services brought forth by an individual or Mountain Mobility in connection with this Agreement; and
- (2) Make necessary determinations of any appeal, clarification or challenge and provide written notification of decision to the individual, Mountain Mobility, and/or other appropriate persons.

c. Reimbursements.

- (1) Reimburse County for the cost of transportation services rendered to Authorized Passengers during the previous month, including no-show and not-ready trips and, if applicable, passenger fares;
- (2) Reimburse County within thirty (30) days of the date of each monthly invoice; and
- (3) Understand that failure by City to reimburse County within thirty (30) day so the date of each invoice may result in discontinuation of services for all authorized passengers unless or until a payment is rendered in full.

d. No-Show and Not Ready Trips.

- (1) Monitor no-show trips (a scheduled passenger trip where the passenger forgets or elects not to go and the passenger does not cancel the trip at least two (2) hours in advance of the appointment time) to ensure Authorized Passengers do not have excessive (three (3) or more) no-show trips;
- (2) Monitor not-ready trips (a scheduled passenger trip where the passenger is not ready to go at the scheduled pick-up time) to ensure Authorized Passengers do not have excessive (three (3) or more) not-ready trips; and
- (3) Notify any Authorized Passenger with excessive no-show or not-ready trips;
- (4) Work to minimize the number of no-show and not-ready trips attributed to Authorized Passengers through monitoring and education; and
- (5) Determine whether or not service should be terminated for Authorized Passengers as a result of no-show trips, not-ready trips, and/or cancellations.

Section 3. Agreement Term and Period of Performance. The Agreement shall take effect on the date first written above and shall be effective through the end of County's fiscal year, June 30, 2022. This Agreement shall be automatically renewed for successive one-year terms unless terminated in writing by either party.

Section 4. Hold Harmless. Except as prohibited or otherwise limited by State law, City agrees to indemnify, defend, save, and hold harmless County and its officers, agents, and employees acting within the scope of their official duties against liability for negligent acts or omissions, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the negligence in performance of this Agreement. This clause does not apply to any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the County, its Contractor or its subcontractor(s) in the performance of this Agreement and that are attributable to the negligence or intentionally tortuous acts of the County. Nothing in this section is intended to affect or abrogate Buncombe County's governmental immunity.

Except as prohibited or otherwise limited by State law, the County agrees to indemnify, defend and hold harmless the City and its subsidiaries, divisions, officer, directors, and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgements and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the County or any employee, agent, subcontractor or assign of the County. Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including but not limited to the defense of governmental immunity.

Section 5. Disputes, Breaches, Defaults, or Other Litigation. Each and every provision of this Agreement shall be governed by the laws of the State of North Carolina and should any claim or dispute arise between the parties

that cannot be resolved amicably then any action to enforce or interpret its terms shall be brought in the General Court of Justice of Buncombe County, North Carolina, which shall have venue and jurisdiction over the subject matter and the parties. Any mediation of any claim or dispute between the parties shall be conducted in accordance with local rules of the General Court of Justice of Buncombe County.

Section 6. Amendments/Revisions to the Agreement. The parties agree that a change in circumstances causing an inconsistency with the terms of this Agreement may require an amendment or revision to this Agreement signed by the original signatories or their authorized designees or successors. The parties agrees that any requests for amendments and or revisions will be submitted in accordance with the policies and procedures established by the County and the City.

Section 7. Severability. If any provision of this Agreement is determined invalid, the remainder of the Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable Federal/State laws or regulations.

Section 8. Termination of Agreement. Notwithstanding the provisions of this Agreement, County or City, by thirty (30) day written notice, may terminate this contract, in whole or in part, when it is in the best interest either party. Violation of State law or of established standards concerning provision of service(s) may result in termination of the agreement without thirty (30) day written notice.

Section 9. Contract Administrators. All notices permitted or required to be given by one party to the other and all questions about this Agreement from one party to the other shall be addressed and delivered to the other party's Contract Administrator. The name, postal address, street address, telephone number, fax number, and email address of the parties' respective initial Contract Administrators are set out below. Either party may change the name, postal address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other party.

FOR THE COUNTY:

Name: Nathan Pennington
Title: Planning Director
Dept.: Buncombe County Planning and Development
Address: 46 Valley Street
City/Zip: Asheville, NC 28801
Phone: (828) 250-4830
Fax: (828) 250-6086
Email: nathan.pennington@buncombecounty.org

FOR THE CITY:

Name: Jessica Morriss
Title: Assistant Director
Dept: Transportation Department
Address: P.O. Box 7148
City/Zip: Asheville, NC 28802
Phone: (828)232-4522
Fax:
Email: jmorris@ashevillenc.gov

IN WITNESS WHEREOF, this Agreement has been executed by the County and the City by and through a duly authorized representative, and is effective the date and year first above written.

City of Asheville

BY: _____

TITLE: _____

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

BY: _____

TITLE: _____

Buncombe County

BY: _____

TITLE: _____

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

BY: _____

TITLE: _____