

THIS AGREEMENT, made and entered into this 1st day of July, 2013, by and between the **County of Buncombe**, a body politic under the laws of the State of North Carolina, (hereinafter referred to as "Buncombe County") and the **City of Asheville**, a North Carolina Municipal Corporation (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, Buncombe County is the recipient of federal and/or state funds through the North Carolina Department of Transportation - Public Transportation Division; and

WHEREAS, Mountain Mobility is Buncombe County's Community Transportation Program through which human service, paratransit, rural general public, and other transportation services are to be provided in a consolidated service design in accordance with policies and procedures set forth by the North Carolina Department of Transportation - Public Transportation Division for Community Transportation Programs; and

WHEREAS, the City desires to purchase transportation services through Mountain Mobility in order to provide effective, quality mobility choices to its authorized passengers.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I. DUTIES OF BUNCOMBE COUNTY

- 1.1 Buncombe County shall prepare and submit to the North Carolina Department of Transportation all applications for grants and other funds that are or may become available and for which Buncombe County is eligible to receive in order to support the administrative, operational, and/or capital needs of Mountain Mobility. Buncombe County shall provide the local match share of County-approved, eligible administrative expenses and shall provide or make provisions for the local match share for approved and eligible capital equipment needs. Buncombe County shall provide planning and program development services associated with grant and contract management, planning studies, grant and project-related reporting, and the development of new and additional service options and mobility choices.
- 1.2 Buncombe County shall operate transportation services provided through Mountain Mobility and for this Agreement, or may contract with one or more service providers to provide said service as it deems appropriate. Buncombe County shall ensure compliance with all federal, state, and local laws and ordinances governing vehicle and driver licensure, operations, insurance, and other standards and specifications as set forth by Buncombe County. Services provided shall include, but not be limited to: the provision of supervision, recruitment, promotion, and management of qualified personnel, including but not limited to management, drivers, dispatchers, and other personnel as required to provide services associated with Mountain Mobility; purchasing fuel, materials and supplies; providing required insurance to the minimum amounts specified; providing vehicles to perform services; and facilities for office space; vehicle parking, cleaning, and maintenance; dispatching vehicles; providing appropriate driver training as required and on a timely basis; collecting fares as applicable; and complying with all applicable service standards, specifications, and regulatory requirements set forth in the attached Appendix A, which is hereby incorporated by reference.
- 1.3 Buncombe County shall provide mobility management services through Mountain Mobility including but not limited to: accepting reservation calls and scheduling trips; assigning trips to vehicles, drivers, and/or service providers as may be applicable; providing trip manifests; providing billing and collection services; and maintaining financial and other required documentation associated with operations.

- 1.4 Buncombe County shall provide administrative services through Mountain Mobility including but not limited to: passenger certification and registration in order to ensure that services provided are eligible for reimbursement by the City; coordination of funding sources in order to utilize the most appropriate funding source based on eligibility factors; determination of any special needs of passengers; performance of monitoring and assessment of services to ensure compliance with applicable laws, regulations, standards and specifications; and satisfactorily respond to service complaints or concerns of passengers and/or the City. Administrative services shall be available when ART administrative office are open and shall utilize an answering machine on holidays and weekends to respond to customer inquiries.
- 1.5 Transportation services shall be provided under this Agreement only to passengers authorized by the City or by Mountain Mobility on behalf of the City, as may be applicable.
- 1.6 Buncombe County shall submit to the City, on or before the tenth (10th) day of each month, a statement based on the billing rate of \$1.30 per shared service mile for the cost of transportation services rendered to authorized passengers during the previous month, including no-show and not-ready trips documented for authorized passengers. One approved attendant or guest, or minor children, shall be allowed to ride with an authorized passenger free of charge. The billing rate for agencies that purchase Mountain Mobility services shall be approved by the Board of Commissioners.
- 1.7 Buncombe County shall submit to the City, on or before the tenth (10th) day of each month, a statement based on the billing rate of \$3.43 per shared service mile for the cost of transportation services rendered to authorized passengers after normal operating hours in the previous month, including no-show and not-ready trips documented for authorized passengers. One approved attendant or guest, or minor children, shall be allowed to ride with an authorized passenger free of charge.
- 1.8 Buncombe County shall provide paratransit service to all ADA-certified passengers on the following holidays: New Years Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day and Labor Day. Holiday service shall be provided to all ADA-certified passengers within the city-wide service area or $\frac{3}{4}$ mile from a transit route outside the City limits. Holiday service shall be provided within the established ADA paratransit service area (city-wide) during the hours of 9 a.m. and 7 p.m. on holidays. The billing rate of \$3.43 per shared service mile shall apply to all ADA transportation services provided on holidays. The same ADA paratransit service standards such as fares, rider requirements, and other policies referenced within this contract shall apply to holiday service.
- 1.9 In addition to the billing rate for passenger transportation services, a ten percent (10%) administrative surcharge shall be applied to each monthly invoice submitted to the City for payment. The administrative surcharge shall be calculated by multiplying the gross cost of service provided for the billing month by ten percent (10%).
- 1.10 Buncombe County shall reimburse all service providers for services provided through Mountain Mobility in accordance with the terms and conditions of its agreement with each Service Provider.
- 1.11 Buncombe County shall keep and maintain good and proper business records of all services and charges provided for under this Agreement. Buncombe County shall provide to the City all information necessary or required for federal, state, and other reports, financial and cost allocations, budgets, performance reports, and other related documentation needs. All books and records maintained by Buncombe County or its service providers pertaining to this Agreement shall be available to the City or its representatives for the purpose of inspection or audit during normal business hours and upon reasonable notice.
- 1.12 Buncombe County and the City agree that the most recent state and/or federal requirements shall govern the administration of this Agreement at any particular time and agree to comply with any new state and/or federal laws, regulations, policies, and administrative practices that may be established and applicable following the date of this Agreement.

- 1.13 Buncombe County shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Buncombe County shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by Buncombe County to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

ARTICLE II. DUTIES OF THE CITY

- 2.1 The City shall provide or shall require its authorized passengers to provide to Mountain Mobility all information necessary to provide service, including but not limited to the names, telephone numbers, location and time of pickups and discharges, special needs, etc. Information shall be provided at least 24 hours in advance of the date service is needed.
- 2.2 The City shall be responsible for reviewing and addressing any appeal, clarification, or challenge to eligibility or certification processes or other questions arising relative to the provision of comparable paratransit services required under the Americans with Disabilities Act that are brought forth by an individual or Mountain Mobility in connection with this Agreement. The City shall make necessary determinations and shall provide written notification of its decision to the individual, Mountain Mobility, and/or other appropriate persons.
- 2.3 The City shall reimburse Buncombe 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, for passenger fares. The per-mile rate is subject to increase upon thirty (30) days notice to the City during the contract period and may be decreased at any time during the contract period. Rate increases shall be no greater than needed to defray the fully allocated cost of providing services through Mountain Mobility.
- 2.4 The City shall reimburse Buncombe County within thirty (30) days of the date of each monthly invoice summary. Any extension of time for payment must be approved in advance by Buncombe County. In the event that the City disputes the accuracy of the monthly statement, the City and Buncombe County shall work cooperatively to resolve all disputed charges. No adjustments shall be made to any monthly statement without the prior approval of Buncombe County. Failure to remit timely payment for authorized transportation services may result in the discontinuation of services for all authorized passengers unless or until a payment is rendered in full.
- 2.5 The City shall monitor no-show and not-ready trips billed by Mountain Mobility. A no-show trip is defined as a scheduled passenger trip where the passenger forgets or elects not to go and the passenger does not cancel the trip at least two hours in advance of the appointment time. A not-ready trip is defined as a scheduled passenger trip where the passenger is not ready to go at the scheduled pick-up time. No-show and not-ready trips shall be monitored by the City to ensure that its passengers do not have excessive no-show and/or not-ready trips associated with the service, which is defined to be three no-show or not-ready trips during a month. In the event that a passenger has excessive no-show or not-ready trips, the City shall notify the passenger of the need to cancel trips at least two hours in advance of an appointment time, or call in advance if the passenger is not ready or is unable to take a scheduled trip, or take other action as deemed appropriate by the City. The City shall use its best efforts to minimize the number of no-show and not-ready trips attributed to its authorized passengers. The City shall be billed for any no-show trips that have not been canceled at least two hours in advance of the passenger's appointment time and for not-ready trips. The City shall determine whether or not service should be terminated due to no-shows and cancellations for its authorized passengers.
- 2.6 The City and the County will remain responsible for their own respective negligence. Further, the City shall be named as an additional named insured regarding liability insurance secured by Buncombe County in providing the services described herein.

ARTICLE III. NOTICE

3.1 Notice to Buncombe County shall be as follows:

Buncombe County
c/o Buncombe County Planning and Development
Attention: Jon Creighton, Assistant County Manager
46 Valley Street
Asheville, NC 28801

3.2 Notice to the City shall be as follows:

City of Asheville
Transportation Department
Attention: Ken Putnam, Director
P.O. Box 7148
Asheville, NC 28802

ARTICLE IV. MISCELLANEOUS PROVISIONS

- 4.1 This Agreement shall take effect on the date first written above and shall be effective through the end of Buncombe County's fiscal year, June 30, 2012. This Agreement shall be automatically renewed for successive one-year terms unless terminated in writing by either party in accordance with Section 4.3 below. If annual agreements for the purchase of transportation services are required by the City, the City shall initiate the annual contract renewal process.
- 4.2 This Agreement shall be incorporated into Transportation Agreements with any or all service providers as if fully set forth therein.
- 4.3 This Agreement may be terminated by either party upon giving a thirty (30) day written notice to the other, except that violation of State law or of established standards concerning provision of the service(s) may result in termination of the agreement without (30) days prior notice.
- 4.4 Regardless of which party hereto is responsible for the preparation and drafting of this Agreement and the documents or portions thereof incorporated herein, neither the Agreement nor any such document or portion thereof shall be construed more strictly against any party hereto.
- 4.5 This Agreement and documents made a part hereof shall be subject to, governed by, and construed according to the laws of the State of North Carolina. Any action to which Buncombe County is a party must be brought in the General Court of Justice of Buncombe County which shall have exclusive venue.
- 4.6 Should any term, condition, or provision of this Agreement or any of the documents made a part hereof, or any portion thereof, be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such term, condition or provision or portion thereof shall be severable, and the remainder thereof shall remain in full force and effect.
- 4.7 This Agreement shall be amended if mandated by the United States of America or the State of North Carolina or any of their respective agencies or departments of by any federal or state law, regulations, directive or order.

IN WITNESS WHEREOF, each party has caused this contract to be duly executed as of the date first written above.

County of Buncombe

Wanda Greore
County Manager

Attest:
Kathy Hughes
County Clerk

City of Asheville

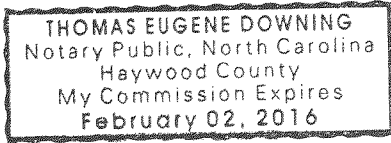
[Signature]
City Manager

Attest:
Magdalen Bouleson
City Clerk

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Notary Public of ^{Haywood} the County and State aforesaid, certify that Magdalen Bouleson personally came before me this day and acknowledged that she is the City Clerk of The City of Asheville, a municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its City Manager and attested by herself as its City Clerk.

Witness my hand and notarial seal this 18th day of November, 2013.



Notary Public: [Signature]
Print or Type Name: Thomas Eugene Downing
My Commission Expires: 2-2-2016

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Notary Public of the County and State aforesaid, certify that Kathy Hughes personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners for the County of Buncombe, a body politic, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its County Manager and attested by herself as its Clerk.

Witness my hand and notarial seal this 3 day of Nov., 2013.

Notary Public: Diane D. Lankford
Print or Type Name: Diane D. Lankford
My Commission Expires: 10-27-14