

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is entered into and effective as of the ____ day of ____ 2015, by and between the City of Asheville (hereinafter "the City") and the Buncombe County Sheriff's Office (hereinafter "BCSO") (collectively "the parties").

WITNESSETH

WHEREAS, the parties currently share \$724,861.00 in grant funds awarded to the City under the North Carolina Governor's Highway Safety Program/Traffic Safety Project; and

WHEREAS, the parties have used said grant funds to establish the Asheville/Buncombe DWI Task Force (hereinafter "Task Force"); and

WHEREAS, the parties wish to define and memorialize their respective rights and responsibilities with regard to Task Force Operations.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. Purpose and Function

The purpose of this Agreement is to define the parties' rights and responsibilities with regard to operation of the Task Force. The primary function of the Task Force will be the investigation and enforcement of laws prohibiting driving while impaired and unrestrained vehicle occupants, however, nothing in this Agreement shall limit any Task Force officer's authority to undertake any other lawful law enforcement action.

II. Operations

A. Personnel and Supervision

1. No transfer of any personnel between the parties is provided for by this Agreement. The City will dedicate four (4) sworn law enforcement officers from the Asheville Police Department (hereinafter "APD") to the Task Force. The BCSO will dedicate two sworn law enforcement officers to the Task Force. Personnel dedicated to the Task Force by each party shall have sufficient experience, training, and ability to perform Task Force functions, and it shall be the responsibility of each party to ensure that personnel dedicated to the Task Force meet this criteria.

2. Daily operation of the Task Force will be coordinated by a designated APD supervisor assigned to the Task Force. Additional coordination and liaison to the Task Force will be provided by that supervisor's chain of command within the APD and by designated representatives of the BCSO. The APD and its designated supervisor's authority to coordinate Task Force operations shall include the authority to control the particular means by which the other party's Task Force officers perform their duties, however, all personnel shall remain under the control of their own agency for administrative purposes including pay and benefits.
3. All employee performance complaints shall be referred to that employee's supervisor within their respective agency. Both parties shall honor written requests from the other party's Chief of Police or Sheriff for the removal of any individual Task Force personnel. The removal of personnel pursuant to such a request shall not relieve either party's obligation to provide the full complement of personnel as agreed upon in section II-A-1 of this Agreement.
4. All citizen complaints or allegations of misconduct against any personnel assigned to the Task Force shall be investigated according to the following procedure:
 - a. Any APD or BCSO supervisor may receive a complaint or allegation of misconduct against any Task Force personnel. Such complaints or allegations shall be referred to the agency with disciplinary authority over the employee(s) against whom the allegation is made.
 - b. In the event a complaint or allegation of misconduct involves personnel from more than one agency, the parties' Chief of Police and Sheriff shall agree in writing which agency shall assume responsibility for investigating the matter, or if appropriate, may agree to refer the matter to another law enforcement agency. The results of any such investigations shall be made available to both parties as allowed by law, and any disciplinary actions taken against Task Force personnel as a result of such investigations shall be the responsibility of the employees' respective agencies.

B. Enforcement and Reporting

1. The parties agree that the Task Force will conduct at least twelve (12) DWI and vehicle occupant restraint enforcement and awareness activities, including DWI checkpoints, within Buncombe County during the grant period. The parties agree that they will mutually agree on dates and procedures, and will mutually prepare and complete all required documentation such that said checkpoints and activities comply both with grant requirements and all Federal, State and local laws.
2. The Task Force shall adhere to the following mutually agreed upon standards:

- a. Task Force agencies shall complete a monthly report on GHSP Form 11 to illustrate the number of DWI arrests, citations issued, vehicles stopped, collisions, and the amount of hours worked on DWI Enforcement.
 - b. Asheville Buncombe County DWI Task Force vehicles will be marked clearly with DWI Task Force lettering. Each vehicle will be identified with an Asheville Police Department and the Office of the Sheriff of Buncombe County badge. The vehicles will have the proper outer and internal emergency lighting.
3. Except where otherwise noted in this policy, or by later written agreement of the Chief of Police and Sheriff, Task Force officers shall adhere to the coordinating agency's operational policies.
 4. The parties agree that APD personnel assigned to the Task Force may be operating outside of their typical territorial jurisdiction in connection with Task Force activities. The parties further agree that APD personnel assigned to the Task Force shall be cross sworn through the Buncombe County Sheriff's Office, and will therefore possess valid law enforcement authority throughout Buncombe County.
 5. The parties agree to request and provide additional assistance via non-Task Force personnel, as circumstances permit, for operations conducted by the Task Force if a particular operation's manpower needs cannot be met by Task Force personnel alone

III. Grant Reporting Requirements

- A. The BCSO agrees that it will provide APD, as grant administrator, all reports, statistics and documents required to ensure compliance with any grant terms and conditions. Further, the BCSO agrees to provide the following documentation to the City within and no later than five (5) days after the end of each calendar quarter following the date of this Agreement:
 - Report(s) due January 5 for fourth quarter (October 1 through December 31)
 - Report(s) due April 5 for first quarter (January 1 through March 31)
 - Report(s) due July 5 for second quarter (April 1 through June 30)
 - Report(s) due October 5 for third quarter (July 1 through September 30)

IV. General Provisions

- A. No Joint Agency; No Real Property

1. By this agreement, no joint agency is established and no real property is involved in the undertaking.

B. Vehicle Agreement and Maintenance

1. The City will be responsible for all fuel costs and maintenance of Task Force vehicles purchased with Task Force Grant Funds assigned to APD Task Force personnel. The BCSO will be responsible for all fuel costs and maintenance of Task Force vehicles purchased with Task Force Grant Funds assigned to BCSO Task Force officers.

C. Liability

1. To the fullest extent permitted by law, each party to this agreement will be responsible for its own acts and omissions under this Agreement and for any liability resulting there from. In the event that the alleged acts or omissions of one party, or its employees or officials, under this Agreement lead to a claim of derivative liability against another party to this Agreement, or against its employees or officials, the former shall indemnify and hold harmless the latter with respect to all such claims, including but not limited to attorney's fees and other costs of defense.

D. No Agency

1. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of principal-agent or master-servant between any party (and/or its officers and employees) and another party (and/or its officers and employees).

E. Method of Financing

1. No financing other than that provided by grant funds will be needed for this undertaking. Each party shall be responsible for its own costs.

F. Entire Agreement; Amendment

1. This Agreement is the entire Agreement between the parties hereto as to the parties' rights and responsibilities in the operation of an Asheville/Buncombe DWI Task Force. All prior conversations or writings between the parties or their representatives are void and extinguished. This Agreement shall not be modified except by a writing subscribed to by all parties.

G. Termination

1. This Agreement is terminable by any of the following ways:

- a. By written agreement of the parties, at any time.
- b. Either party may unilaterally withdraw from this Agreement for any subsequent grant year (October 1 through September 30), by providing written notice to all parties on or before March 31 of the prior grant year.
- c. Either party may unilaterally withdraw from this agreement in the event of the loss of expected grant funding.

H. Authority to Contract

1. Each party hereto represents and warrants that it has the legal authority to enter into this Agreement and to bind itself to its terms, and that its governing board or Sheriff has approved or authorized the entry into this Agreement as required pursuant to N.C.G.S. 160A-461.

I. Assignment

1. This Agreement may not be assigned by any party, nor shall the performance of any duties under this Agreement be delegable by any party, without the prior written consent of all parties. This Agreement shall not be assignable by operation of law.

J. Notices

1. All notices pursuant to this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, return receipt requested, at the addresses appearing below. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) business days after mailing. If the official named below no longer holds the office indicated, notice shall be sent to the current official holding the office, at the address indicated. Parties may change their point of contact for notices under this paragraph by written notice to all other parties.

Gary Jackson, City Manager
City of Asheville
PO Box 7148
Asheville, NC 28802

Steve Belcher, Interim Chief of Police
City of Asheville
PO Box 7148
Asheville, NC 28802

Van Duncan, Sheriff
Buncombe County
202 Haywood Street
Asheville, NC 28801

K. Governing Law

1. This Agreement shall be governed by, and construed according to, the laws of the State of North Carolina.

L. Execution

1. Separate copies of this Agreement may be executed by the parties and signature pages or copies thereof brought together to form the completed document. This Agreement shall become effective upon execution by all parties and ratification by resolutions of the Asheville City Council and the Buncombe County Sheriff in accordance with N.C.G.S. § 160A461.

CITY OF ASHEVILLE

ATTEST:

Gary Jackson, City Manager

Magdalen Burleson, City Clerk

APPROVED AS TO CONTENT:

Stewart R. Beckett

Asheville Police Department
Representative

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

Finance Director

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, a Notary Public of the County
and State aforesaid certify that Magdalen Burleson, personally came before me this day
and acknowledged that she is the City Clerk of the City of Asheville, and that by
authority duly given, 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 __ day of _____, 2015.

Notary Public

My Commission Expires: _____

BUNCOMBE COUNTY SHERIFF'S OFFICE

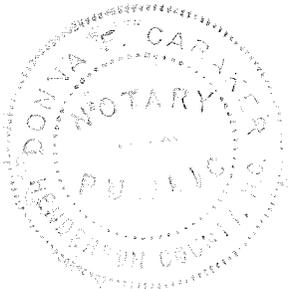


Van Duncan, Buncombe County Sheriff

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Donna F Caraker, a Notary Public of the County and State aforesaid certify that Van Duncan, personally came before me this day and acknowledged that she is the Clerk to the Buncombe County Board of Commissioners, and that by authority duly given, the foregoing instrument was signed in its name by its County Manager and attested by herself as the Board's Clerk.

Witness my hand and notarial seal this 10th day of June, 2015.





Notary Public

My Commission Expires: 9-15-15