



1. Agenda Outline

Documents:

[2020 04 07 BOC PRE-AGENDA AGENDA OUTLINE.PDF](#)

2. Agenda Full Version

Documents:

[2020 04 07 BOC PRE-AGENDA AGENDA FULL VERSION.PDF](#)

In accordance with ADA regulations, persons in need of an accommodation to participate in the meeting should notify the County Manager's office at 828-764-9350 at least forty-eight (48) hours prior to the meeting.



**Burke County  
Board of Commissioners  
Pre-Agenda Meeting  
Cisco Webex Virtual Meeting  
Tuesday, April 7, 2020  
3:00 PM**

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- 1. CALL TO ORDER**
  - 2. APPROVAL OF THE AGENDA**
  - 3. PRESENTATIONS**
    1. AS - Pet of the Month (Place Holder) - Presented by Kaitlin Settlemyre, Animal Services Director
  - 4. SCHEDULED PUBLIC HEARINGS**
  - 5. CONSENT AGENDA**
    1. BOC - Resolution Supporting Proposed FY 2019-2021 Biennium Budget - Presented by Johnnie Carswell, Chairman
    2. Clerk - Appointments to CPCF Team - Presented by Kay Draughn, Clerk to the Board
    3. Clerk - Resolution Supporting SCFAC - Presented by Kay Draughn, Clerk to the Board
    4. Comm. Dev. - Accept 2020 Abandoned Manufactured Home Grant - Presented by Shane Prisby, Community Development Operations Manager
    5. Comm. Dev. - Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk - Presented by Shane Prisby, Community Development Operations Manager
    6. Comm. Dev. - Accept Recreational Trails Program 2020 Grant Contract - Northwest Gap 2 - Presented by Shane Prisby, Community Development Operations Manager
    7. Comm. Dev. - Resolution to Support 2021 Recreational Trails Program Grant Application - OVNHT/FFST Canal Bridge - Presented by Shane Prisby, Community Development Operations Manager
    8. Comm. Dev. - Accept STBG-DA Grant Agreement - Linville Dam - Presented by Shane Prisby, Community Development Operations Manager
    9. Tax Dept. - Tax Collection Report for March 2020 - Presented by Danny Isenhour, Tax Administrator
    10. Tax Dept. - Release Refund Report for March 2020 - Presented by Danny Isenhour, Tax Administrator
  - 6. ITEMS FOR DECISION**
  - 7. REPORTS**
  - 8. OTHER DISCUSSION ITEMS**
  - 9. ADJOURN**
- 

**Important Information**  
**To obtain meeting connection credentials, please contact**



**Kay Draughn, Clerk to the Board, at 828.764.9354 or [kay.draughn@burkenc.org](mailto:kay.draughn@burkenc.org) by 1 p.m. on Monday, April 6, 2020.  
First come first served.**



**Burke County  
Board of Commissioners  
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First come first served.**

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**PRESENTATIONS**

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**Subject Title: AS - Pet of the Month (Place Holder)**

**Presented By: Kaitlin Settlemyre**

**Summary of Information:** Animal Services staff will present a dog and cat in need of its “forever” home at the regular meeting.

**Budgetary Effect:** None.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion: None. Encourage citizens to adopt an animal from the Burke Co. Animal Services Center.**

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

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**Subject Title: BOC - Resolution Supporting Proposed FY 2019-2021 Biennium Budget**

**Presented By: Johnnie W. Carswell**

**Summary of Information:** The following resolution encourages the State to adopt the proposed FY 2019-2021 Biennium Budget and requests funding for certain projects/initiatives in Burke County.

**Budgetary Effect:** N.A.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion: To adopt Resolution No. 2020-09.**

**RESOLUTION OF THE BURKE COUNTY BOARD OF COMMISSIONERS  
SUPPORTING THE STATE OF NORTH CAROLINA'S  
PROPOSED FY 2019-2021 BIENNIUM BUDGET**

WHEREAS, Burke County, North Carolina is a political subdivision of the State of North Carolina;

WHEREAS, Burke County is recognized as a center for tourism, a revered education system, prospering rural municipalities, and exceptional business growth;

WHEREAS, Burke County and the municipalities within it provide essential public safety services, such as law enforcement and fire services that are dependent on strong funding support from the State;

WHEREAS, Burke County and the municipalities within it provide critical treatment programs for individuals with mental health disorders, substance use disorders, along with facilities for offenders that have been adjudicated by law that require sustained state funding;

WHEREAS, the excellent educational opportunities and business growth in Burke County are critically supported with state funding;

WHEREAS, Burke County Public Schools is among the highest performing public-school systems in North Carolina, with graduation rates at 89.7% cohort for all four high schools; 7 of 23 schools exceeding growth at 30% (SA 20%); 12 schools met growth at 52%; Draughn High School's graduation rate was 95.1% and Burke Middle College was 100%. All four high schools received a grade of B and Burke Middle College received an A (99); ranked #22 on Niche.com list of best school districts in the state; tied for 3<sup>rd</sup> for districts our size behind Chapel Hill-Carborro and Henderson county;

WHEREAS, Western Piedmont Community College is responsible for over \$177 million per year in income added by its graduates to the regional workforce and is considered one of the top attractions for recruiting business and industry to Burke County;

WHEREAS, Burke County recognizes that strong collaborative efforts in the community create lasting, positive impact for residents of Burke County and surrounding areas; and

WHEREAS, the current proposed bipartisan state budget for the FY 2019-2021 biennium would include funding for several critical county and community investments, including:

**Burke County Items in H966 – Appropriations Act**

- **\$15.8 million** to Burke Schools for school construction and R&R
- **\$3.9 million** to Western Piedmont Community College for school construction and R&R
- **\$15 thousand** to the Veterans Killed in Action Fund

- **\$25 thousand** to East Burke Christian Ministries for the provision of food, clothing, and emergency financial aid to low income individuals in the community
- **\$25 thousand** to Burke United Christian Ministries for the provision of food, clothing and emergency financial aid to low income individuals in the community
- **\$100 thousand** to Christ Centered Recovery Program
- **\$180 thousand** to Partners Behavioral Health Management to study the feasibility of starting a behavioral health crisis center
- **\$15 thousand** to the Pregnancy Care Center of Burke County
- **\$1 million** to Burke County for the repair and renovation of the courthouse
- **\$50 thousand** to the Town of Valdese for parks
- **\$50 thousand** to the City of Morganton for Main street improvements
- **\$5.6 million** to the North Carolina School of Science and Math – Morganton campus for staff, operating expenses, and equipment
- **\$2 million** to the Department of Natural and Cultures Resources for the development of the Wilderness Gateway Trail in McDowell, Rutherford, Burke, and Catawba counties

**TOTAL: \$28.7 Million**

NOW THEREFORE, BE IT RESOLVED, that Burke County strongly encourages all members of the General Assembly to act in accordance with the needs of the State and support Burke County by taking measures to enact the proposed bipartisan state budget, notwithstanding the objections of the Governor, to ensure these important programs for the institutions and communities that they will so clearly benefit.

This the 21<sup>st</sup> day of April 2020.

\_\_\_\_\_  
 Johnnie W. Carswell, Chairman  
 Burke Co. Board of Commissioners

Attest:

\_\_\_\_\_  
 Kay Honeycutt Draughn, CMC, NCMCC  
 Clerk to the Board

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

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**Subject Title: Clerk - Appointments to CPCF Team**

**Presented By: Kay Draughn**

**Summary of Information:** The terms of appointment for Seats 1, 2 and 4 on the CPCF (Child Protection Child Fatality Team) end April 30, 2020. Sheriff Whisenant (Seat 1) and Chris Jernigan (Seat 4) are willing to serve another 3-year term. Greg Curry, the EMS Director, has applied for Seat 2 formerly held by Major Jason Black.

**Budgetary Effect:** None.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion:** To reappoint Sheriff Steve Whisenant (Seat 1 - Law Enforcement) and Chris Jernigan (Seat 4 - At-large) to the Child Protection Child Fatality Team for 3-year terms ending April 30, 2023.

To appoint Greg Curry (Seat 2 - EMS) to the Child Protection Child Fatality Team for a 3-year term ending April 30, 2023.



**Child Protection & Child Fatality Prevention Team  
21-Members  
County Appoints Eight (8) Members  
3-Year Terms**

General Statute: 7B-1406

Seat No.	Position	Name-Address		Term
1	Law Enforcement	Steve Whisenant, Sheriff 110 Meadow View Street Morganton, North Carolina 28655	A	1/17/2012
			R	7/15/2014
			R	4/18/2017
			TE	4/30/2020
2	EMS	Major Jason Black 5706 Mt. Olive Churh Road Morganton NC 28655	A	4/18/2017
			TE	4/30/2020
3	Parent w/ Child < 18	Kathy Smith 3097 Spencer Trail Lenoir NC 28645	A	7/19/2016
			R	6/18/2019
			TE	4/30/2022
4	At-large	1 Mr. Chris Jernigan 7330 Myrtle Drive Nebo, North Carolina 28761	A	
			R	4/19/2005
			R	6/17/2008
			R	5/17/2011
			R	7/15/2014
			R	4/18/2017
TE	4/30/2020			
5	At-large	2 April Pope 940 E. Union Street Morganton NC 28655	A-UT	1/21/2020
			R	
			R	
			TE	4/30/2022
6	At-large	3 Beth Cali 1552 Mtn. Shadows Drive	A-UT	5/15/2018
			R	

Attachment: CPCT Roster (3025 : Clerk - Appointments to CPCF Team)

			Morganton NC 28655	TE	4/30/2021
7	At-large	4	David Rust 2971 Shell Avenue Valdese, NC 28690	A R R TE	10/2/2012 9/15/2015 5/15/2018 4/30/2021
8	At-Large	5	Brandon L. Collins 155 Whispering Pine St. Morganton, NC 28655	A R TE	7/21/2015 5/15/2018 4/30/2021

A=Appointment  
R=Reappointment  
A-UT=Appointed to Complete Unexpired Term  
TE=Term Expires

Attachment: CPCT Roster (3025 : Clerk - Appointments to CPCF Team)



# BURKE COUNTY APPOINTMENT APPLICATION BOARDS AND COMMITTEES

Name: Steve E. Whisenant Date: February 11, 2020

Address: PO Box 2027

City: Morganton State: NC Zip: 28680

Telephone: Home: \_\_\_\_\_ Business: 828-764-9504

Cell: \_\_\_\_\_ Email: steve.whisenant@burkenc.org

Occupation: Burke County Sheriff

Retired from: Federal Probation

How did you hear about this opportunity? Currently serving on board

Are you currently serving on a county board or committee?  Yes  No

If so, please identify the board or committee: Community Child Protection Team  
Child Fatality Protection Team

Community interest and activities:  
\_\_\_\_\_  
\_\_\_\_\_

Do you reside in the extraterritorial area of a municipality?  Yes  No

List in order of preference the board and/or committee(s) on which you would like to serve.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Most board or committee seats have no special requirement other than being a citizen of Burke County. Do you have special criteria that you would like to be considered for this appointment?

\_\_\_\_\_  
\_\_\_\_\_

Describe why you are interested in serving on a board or committee. What goals and objectives do you have?

\_\_\_\_\_  
\_\_\_\_\_

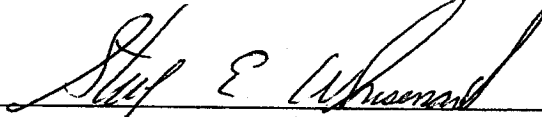
Are you willing to attend board or committee meetings on a regular basis?  Yes  No

Please disclose any business or personal relationships that may be considered a conflict of interest, if selected to serve on a board or committee: \_\_\_\_\_

\_\_\_\_\_

Remarks: \_\_\_\_\_

(OPTIONAL)

Signature:  \_\_\_\_\_

(ORIGINAL SIGNATURE REQUIRED)

(SIGNING INDICATES AGREEMENT TO ABIDE BY THE BURKE COUNTY CODE OF ETHICS.)

Return to: Burke County  
Attn: Clerk to the Board  
P.O. Box 219  
Morganton NC 28680  
Email: [kay.draughn@burkenc.org](mailto:kay.draughn@burkenc.org)  
Phone: 828-764-9354 Fax: 828-764-9352

Attachment: Sheriff Whisenant- CCPT-CFPT application 2020 (3025 : Clerk - Appointments to CPCF Team)



**BURKE COUNTY  
APPOINTMENT APPLICATION  
BOARDS AND COMMITTEES**

Name: Greg Curry Date: March 11, 2020

Address: PO Box 307

City: Jonas Ridge State: NC Zip: 28641

Telephone: Home: 828-733-8869 Business: 828-764-9326

Cell: 828-448-1894 Email: greg.curry@burkenc.org

Occupation: EMS Director

Retired from: N/A

How did you hear about this opportunity? Rebecca McCleod

Are you currently serving on a county board or committee?  Yes  No

If so, please identify the board or committee: LEPC

Community interest and activities:

Safety

Do you reside in the extraterritorial area of a municipality?  Yes  No

List in order of preference the board and/or committee(s) on which you would like to serve.

1. Child protection. Child fatality.
2. \_\_\_\_\_
3. \_\_\_\_\_

Most board or committee seats have no special requirement other than being a citizen of Burke County. Do you have special criteria that you would like to be considered for this appointment?

I have no special skills.

Describe why you are interested in serving on a board or committee. What goals and objectives do you have?

Rebecca asked me.

Are you willing to attend board or committee meetings on a regular basis?  Yes  No

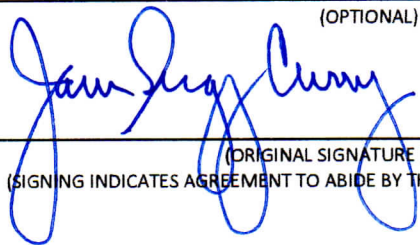
Please disclose any business or personal relationships that may be considered a conflict of interest, if selected to serve on a board or committee:

None.

Remarks: \_\_\_\_\_

(OPTIONAL)

Signature: \_\_\_\_\_



(ORIGINAL SIGNATURE REQUIRED)

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Attachment: Greg Curry App (3025 : Clerk - Appointments to CPCF Team)



**BURKE COUNTY  
APPOINTMENT APPLICATION  
BOARDS AND COMMITTEES**

Name: Chris Jernigan Date: 2/11/20

Address: 105 S Green St.

City: Morganton State: NC Zip: 28655

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Cell: 828-403-0862 Email: wcjernigan@southmountain.org

Occupation: Executive Director

Retired from: \_\_\_\_\_

How did you hear about this opportunity? \_\_\_\_\_

Are you currently serving on a county board or committee?  Yes  No

If so, please identify the board or committee: Child Fatality Review / Community Child Protection Team

Community interest and activities:

Community Child Protection Team

Child Fatality Review Team

Do you reside in the extraterritorial area of a municipality?  Yes  No

List in order of preference the board and/or committee(s) on which you would like to serve.

1. CCPT / CFR
2. \_\_\_\_\_
3. \_\_\_\_\_

Most board or committee seats have no special requirement other than being a citizen of Burke County. Do you have special criteria that you would like to be considered for this appointment?

I am the sole remaining Charter member of this committee. We began CCPT in 1990 & added CFR in 1991

Revised: 1-26-18

Attachment: Chris Jernigan-CCPT-CFPT application 2020 (3025 : Clerk - Appointments to CPCF Team)

Describe why you are interested in serving on a board or committee. What goals and objectives do you have?

\_\_\_\_\_  
\_\_\_\_\_

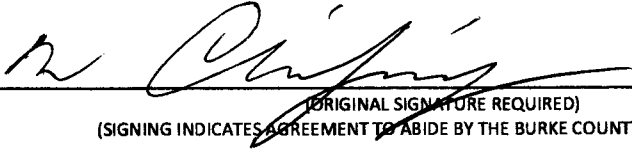
Are you willing to attend board or committee meetings on a regular basis?  Yes  No

Please disclose any business or personal relationships that may be considered a conflict of interest, if selected to serve on a board or committee: \_\_\_\_\_

\_\_\_\_\_

Remarks: \_\_\_\_\_

(OPTIONAL)

Signature:  \_\_\_\_\_

(ORIGINAL SIGNATURE REQUIRED)  
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Attachment: Chris Jernigan-CCPT-CFPT application 2020 (3025 : Clerk - Appointments to CPCF Team)



**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

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**Subject Title: Clerk - Resolution Supporting SCFAC**

**Presented By: Kay Draughn**

**Summary of Information:** The State Consumer & Family Advisory Committee (SCFAC) has composed a draft resolution asking each of NC's 100 counties to consider adoption showing support for the SCFAC as the members meet on May 19<sup>th</sup> with legislators. The goal is to inform law makers of the needs associated with treatment and services for Mental Health (MH), Substance Use Disorder (SUD) and Intellectual Developmental Disabilities (IDD).

**Budgetary Effect:** N.A.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion: To adopt Res. No. 2020-10.**

County of Burke  
State of North Carolina

**Resolution in Support  
of  
NC State Consumer & Family Advisory Committee (SCFAC)**

WHEREAS, North Carolina's 100 counties experience on a daily basis; short falls in treatment of its residents in resources to treat, support and sustain life and health;

WHEREAS, NC counties are challenged with the decision to spend tax dollars for needed services for those experiencing Mental Health/Intellectual Developmental Disabilities/Substance Use Disorder/Traumatic Brain Injury (MH/IDD/SUD/TBI) challenges;

WHEREAS, the NC State CFAC is tasked with seven (7) statutory mandates to advise the NC Department of Health and Human Services (DHHS) and the legislature;

- Review, comment on, and monitor the implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services
- Identify service gaps and underserved populations
- Make recommendations regarding the service array and monitor the development of different services
- Review and comment on the State budget for mental health, developmental disabilities, and substance abuse services
- Participate in all quality improvement measures and performance indicators
- Receive the findings and recommendations by local CFAC's regarding ways to improve the delivery of mental health, developmental disabilities, and substance abuse services
- Provide technical assistance to local CFACs in implementing their duties

THEREFORE, the NC State CFAC in its efforts to address the needs of MH/IDD/SUD/TBI individuals, their families and the larger community, requests county support for the engagement of:

- Systems Advocacy;
- Improved Service Delivery;
- Ensure Provision of Quality Services and
- Cultivation of Community Engagement.

BE IT FURTHER RESOLVED that NC State CFAC is endorsed by the Burke County Board of Commissioners to represent the needs of Burke County.

Adopted this 21<sup>st</sup> day of April 2020.

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Johnnie W. Carswell, Chairman  
Burke Co. Board of Commissioners

ATTEST:

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Kay Honeycutt Draughn, CMC, NCMCC  
Clerk to the Board

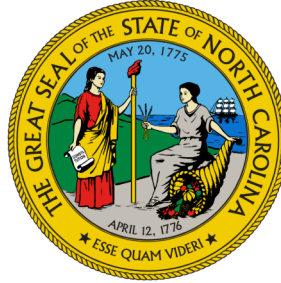
## Mission

The Mission of the State CFAC is to:

- Support development of consumer services by identifying needs and gaps in services and promoting services that are effective and meet quality standards.
- Support CFAC growth and development at state and local level.
- Support individual consumer and family participation at state and local level.

## State Statute

State CFAC is mandated under G.S. 122C-171. This committee is a self-governing and self-directed organization that advises the Department and the General Assembly on the planning and management of the State's public mental health, developmental disabilities, and substance abuse system.



NC DEPARTMENT OF  
**HEALTH AND HUMAN SERVICES**

Division of Mental Health,  
Developmental Disabilities  
and Substance Abuse Services

*The Community Engagement and Empowerment Team (CE&E) provides support to the CFAC to assist in implementing its duties.*

## State Consumer & Family Advisory Committee

C/O  
Community Engagement &  
Empowerment Team  
3001 Main Service Center  
Raleigh NC 27699-3001

# State Consumer and Family Advisory Committee

*Nothing About Us, Without Us.*



### CFAC Purpose

- Review, comment on, and monitor the implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- Identify service gaps and underserved populations.
- Make recommendations regarding the service array and monitor the development of different services.
- Review of and comment on the State budget for mental health, developmental disabilities, and substance abuse services.
- Participate in all quality improvement measures and performance indicators.
- Receive the findings and recommendations by local CFACs regarding ways to improve the delivery of mental health, developmental disabilities, and substance abuse services.
- Provide technical assistance to local CFACs in implementing their duties.

**Nothing About Us,  
Without Us.**

### Membership for State CFAC

The State CFAC is composed of 21 members. The membership shall be composed exclusively of adult consumers (18 and over) of mental health, developmental disabilities and substance abuse services; and family members of consumers of mental health, developmental disabilities, and substance abuse services.

*“State CFAC has given me another avenue to learn how to approach policymakers about critical issues as it relates to people with Mental Health, Developmental Disabilities, and Substance Use Disorders and their families.”*

- Jonathan Ellis, ADA Coordinator  
State CFAC Member, Trillium Catchment Area

### Appointing Authorities for State CFAC

- Nine by the Secretary of DHHS
- Three by the General Assembly upon the recommendations of the President Pro-Tempore of the Senate
- Three by the General Assembly upon the recommendations of the Speaker of the House of Representatives
- Three by the Council of Community Programs
- Three by the North Carolina Association of County Commissioners

### State CFAC Meeting Information



State CFAC meets the second Wednesday of every month. These meetings are open and public comments are encouraged.

**Your voice is so important  
it was written into law.**

**Systems Advocacy**



**Improving the Service  
Delivery System**



**Ensuring Quality Services**



**Cultivating Community  
Engagement**



### Visit Us on the Web

All meetings with location are posted on the NC Division of Mental Health Developmental Disabilities & Substance Abuse Services.



<https://www.ncdhhs.gov/documents/state-consumer-and-family-advisory-committee-agendas>

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

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**Subject Title: Comm. Dev. - Accept 2020 Abandoned Manufactured Home Grant**

**Presented By: Shane Prisby**

**Summary of Information:** The Community Development Department applied for and received a \$10,000 grant from NC Department of Environmental Quality to remove 6-7 Abandoned Manufactured Houses. The grant would reimburse \$1,500 per single-wide unit removed or \$2,500 per double-wide unit.

The department has already had more applicants to the program than the grant would cover. The applicants have agreed to pay the tipping fee for disposal at the landfill. The County would hire a contractor to remove the unit and separate out any hazardous materials. The removals would be bid out as a single contract. The County would be responsible for any amount over the reimbursement rate and the department is requesting authorization of up to \$2,335 from the General Fund to complete the removals.

**Budgetary Effect:** An increase of \$2,335 from the grant and an expense of up to \$2,335 from the General Fund for any additional expenses.

**County Manager's Recommendation:** Approval is recommended

**Suggested Motion: Accept the Abandoned Manufactured Housing Removal Grant and authorize up to \$2,335 of Fund Balance from the General Fund for the completion of the removals. Further, authorize the County Manager to execute the grant agreement and removal contract on behalf of the Board, subject to review and/or revision by the County Attorney.**



## Abandoned Manufactured Homes Grant Program REQUEST FOR PROPOSAL

Division of Environmental Assistance and Customer Service  
N.C. Department of Environmental Quality (NC DEQ)

The purpose of this grant program is to assist counties with implementing Abandoned Manufactured Home Clean-up Programs. The Division of Environmental Assistance and Customer Service (DEACS) within the N.C. Department of Environmental Quality (NC DEQ) administers the Abandoned Manufactured Home (AMH) Grant Program through the Solid Waste Management Outreach Program.

With the release of this request for proposals (RFPs), DEACS is accepting applications for grant funding from North Carolina counties seeking to participate in the Abandoned Manufactured Homes Grant Program.

**Applicants should carefully read this entire document prior to applying for an AMH grant.** There are many details in this grant application and the county staff need to be fully aware of them to provide the best possible application and have the greatest chance of getting grant funding. For assistance, potential applicants are strongly encouraged to contact David Hance, AMH Grant Program Administrator at (919) 707-8122 or [david.hance@ncdenr.gov](mailto:david.hance@ncdenr.gov).

**Application Deadline: 5:00 p.m. on Tues., Dec. 3, 2019.**

### **Eligible Entities:**

Only North Carolina county governments are eligible for funding through the AMH Grant Program.

Applicants with current, open DEACS AMH grant contracts will not be considered for funding. Applicants that have failed to complete and submit the required Local Government Solid Waste and Materials Management Annual Report will not be considered for funding.

### **Types of AMH Grants:**

There are two types of AMH grants available:

- (1) ***AMH Planning Grant:*** Available to first-time applicants in Tier 1 and Tier 2 counties, AMH Planning Grants are designed to assist counties in gaining a more precise understanding of the AMH challenges in their jurisdiction and how they will be addressed. A planning grant may be applied for with a cleanup grant or may be applied separately. See sections below for more information on planning requirements, planning grants, and funding availability.
- (2) ***AMH Cleanup Grant:*** AMH Cleanup Grants are designed to assist counties with the demolition and cleanup costs associated with the removal of abandoned manufactured homes within their jurisdiction. Applicants for an AMH Cleanup Grant must have either previously received an AMH Planning Grant, submit in conjunction an application for an AMH Planning Grant (if eligible), or submit in conjunction a written plan for the management of AMH within their jurisdiction.

### **Available Funding:**

DEACS has limited funds for the Abandoned Manufactured Home Grant Program and has allocated \$80,000 for AMH grant funding for fiscal year 2019-20. Upon consideration of the proposals, DEACS reserves the right to revise the amount spent for this grant cycle. Contract execution and disbursement of funds are contingent upon the availability of fund to DEACS for this purpose.

The amount of funding available to each applicant through an AMH Grant is determined by the a county's designation by the N.C. Department of Commerce as a development Tier 1, 2, or 3 area ([map of tier designations](#)) as set forth by [G.S. 143B-437.08](#).

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)

Regardless of total funds received by a particular county, the type of funding a county may receive is dictated by NCGS 130A-309.115 (c) for counties based on economic stress levels under the NC Department Commerce economic tier map and listing. Planning grants may be used to support the development of a County’s written plan for the management of abandoned manufactured homes (AMHs) and/or to identify and inventory the number abandoned manufactured homes in a community. Planning grants may be separate from or incorporated into the initial AMH Grant Program application and contract. Tier 3 counties are not eligible for supplemental funds or planning grants.

The following table summarizes the types of funds for the AMH Grant Program based on tiers levels:

AMH Grant Funding Availability	Tier 1 or 2 County	Tier 3 County
Planning Grant ( <i>one-time only</i> )	Eligible	<i>Not eligible</i>
Clean-up Grant	Eligible	Eligible
Supplemental award for clean-up	Eligible	<i>Not eligible</i>

**Required Written Plan:**

The statutory foundation for addressing abandoned manufactured homes is found in Session Law 2013-409. **The statute requires that for a county to be eligible for AMH Grant Program funding, the county must have a specific written plan for the management of abandoned manufactured homes.**

Each county that is seeking AMH grant funds to remove units must submit a written plan with the grant application. This requirement impacts both new applicants and those who have applied as repeat grantees. The only exception are first-time applicants seeking a planning grant only. First-time grantees receiving a planning grant separate from a cleanup grant must submit a written plan as an attachment to their final report at the end of the contract period to fulfill the requirements of the planning grant contract.

At a minimum, this written plan must address the following four items:

- A method by which the county proposes to identify abandoned manufactured homes in the county, including, without limitation, a process by which manufactured homeowners or other responsible parties may request designation of their home as an abandoned manufactured home.
- A plan for the deconstruction of these abandoned manufactured homes.
- A plan for the removal of the deconstructed components, including mercury switches from thermostats for reuse or recycling, as appropriate.
- A plan for the proper disposal of abandoned manufactured homes not deconstructed.

When applying for an AMH Cleanup Grant, applicants must provide a copy of their written plan for the management of abandoned manufactured homes. This plan must address **each** of the four required provisions listed above.

**DEACS will not accept references to county ordinances, solid waste plans or other documents in lieu of an actual written plan that follows the four points listed above.**

Grantees who have received an AMH grant in the past are required to submit any significant changes to their final written plan with the final report they send in on a grant. Things that may necessitate that change could include changes acted upon by the county board, significant amendments to ordinances, changes to any other documents used to support program, or some administrative change enacted by the county government.

Contact David Hance, AMH Grant Program Administrator at (919) 707-8122 or david.hance@ncdenr.gov if program changes occur or if you have any questions.



**AMH Planning Grant:**

As stipulated in Section 5 of Session Law 2008-136, counties designated as Tier 1 or Tier 2 areas may request a Planning Grant of up to \$2,500. These funds may be used to prepare a plan for the management of abandoned manufactured homes and to identify abandoned manufactured homes within their jurisdiction for potential abatement. In receiving a planning grant from DEACS, the county is making a commitment to pursue an AMH demolition and cleanup grant either in conjunction with the planning grant or in a later grant round.

Eligible applicants may choose to apply for a planning grant either *in conjunction with* or *separately from* their application for an AMH cleanup grant.

- **Where a planning grant is applied for separately from a cleanup grant by a NEW grantee, these small grants are exempt from grant RFP deadlines and may be applied for anytime during a fiscal year, provided funds are still available.**
- Any grantee that applies for a cleanup grant *with* a planning grant is subject to deadlines and other requirements of the RFP for new applicants.
- Repeat grantees are not eligible for a planning grant.

Any first-time Tier 1 or Tier 2 applicant may apply for an AMH Planning Grant as a stand-alone grant during a grant-round in advance of applying for a full AMH demolition and cleanup grant in a later year. The applicant will need to demonstrate in the application that the county board or program manager intends to apply for an abandoned manufactured home (AMH) cleanup grant. Acceptable proof of the intent to pursue an AMH cleanup grant includes board minutes showing a favorable vote, a resolution from the county board, a letter from the board chairman, or a letter from the AMH program manager stating the intent to pursue an AMH grant in a later round.

Counties are directed by statute to pursue sharing of the cost of managing AMH units with responsible parties. Counties should attempt to recover costs that exceed \$1,000 spent on a project from the responsible party prior to seeking reimbursement of grant funds. The steps required for recovering costs from responsible parties are outlined in [G.S. 130A-309.114](#) subsection c. For more information on the amount of grant funding available for the deconstruction of individual units, please see the description of the AMH Cleanup Grant below.

**AMH Cleanup Grant:**

Counties may develop abandoned manufactured home (AMH) clean-up programs that are mandatory, voluntary or any combination thereof. Counties are encouraged to develop programs that incorporate both voluntary and mandatory components. Counties are also strongly encouraged to incorporate up-front cost recovery practices into their programs to ensure that the most efficient and effective use of state grant funding is achieved. Counties may directly conduct clean-up of abandoned manufactured home units if they may contract with a private entity or another unit of local government to conduct clean-up operations.

The maximum amount of money a grantee may use for each AMH demolition is dependent on the county's annual tier designation (Tier 1, Tier 2, or Tier 3) from the NC Department of Commerce. In addition, the allowable reimbursement amounts per unit are based on the size of the mobile home unit deconstructed (single- or double-wide unit). Use of grant funds to support the demolition and removal of triple-wide units is no longer allowed.

The AMH Grant Program reimbursement schedule allows for Tier 1 and Tier 2 counties to be reimbursed \$1,000 for the management of single-wide units, plus a supplemental reimbursement of \$500 to assist with the disposition of abandoned manufactured homes. Counties are encouraged to seek program cost savings through operation efficiencies and to recover costs that exceed \$1,000 from responsible parties prior to using supplemental funds. When applying for an AMH Grant, the applicant's AMH program description must describe the approach towards seeking funds from responsible parties. Reimbursement of supplemental funds is made at the discretion of DEACS.

Maximum Per Unit Reimbursement Schedule		
Unit Type	Tier 1 and 2 Counties	Tier 3 Counties
Single-Wide	\$1,500.00	\$1,000.00
Double-Wide	\$2,500.00	\$2,000.00

Apart from planning grants, reimbursement will only be made for operating expenses directly related to the management of abandoned manufactured homes. If a county is using a contractor for deconstruction operations, documentation of disposal/deconstruction costs will be through contractor invoices, tipping fee invoices, and general full cost accounting. If the program is run internally, documentation of costs will be through full cost accounting of program expenses using an accounting methodology agreed upon by the county and DEACS. If a third party is administering or operating aspects of the abandoned manufactured homes (AMH) program, reasonable fees paid for program administration will be considered reimbursable, and details of anticipated administrative costs should have been provided as a part of the county’s program budget in the grant application.

In order to minimize the amount of time spent managing reimbursements, requests for reimbursement should be submitted on a quarterly basis or when a grantee has accumulated a minimum of 5 deconstructed units. DEACS may make exceptions to this on a case-by-case basis.

**Funding Period:**

AMH Grant Contracts will be written for the minimum contract term of one (1) year and a maximum contract term of two (2) years. Applicants should carefully consider the need and demand for AMH deconstruction in their community as they determine whether to seek a one (1) year or two (2) year grant term and develop their grant timeline. Grantees must expend grant funds within the grant contract term unless the term is extended by written agreement between the grantee and the N.C. Department of Environmental Quality.

**How to Submit a Proposal:**

One electronic copy of the proposal must be submitted to David Hance at [david.hance@ncdenr.gov](mailto:david.hance@ncdenr.gov). Please submit electronic applications as Microsoft Word (preferred) or Adobe (PDF) attachments. If you are unable to apply electronically, please contact David Hance at 919-707-8122 for alternative arrangements. Please note that the application deadline still applies.

**Due Date:**

**Proposals MUST be received by DEACS by 5:00 p.m. on Tues., Dec. 3, 2019.**

Proposals received after the deadline will NOT be considered. Local governments requiring board approval to apply for grant funds should plan to procure that approval before the submittal deadline.

Receipt of all proposals will be acknowledged by email. It is the responsibility of applicants submitting a proposal to contact our office if they do not receive a confirmation. No arrangements will be made for lost applications after the due date. If you do not receive a confirmation that your application has been received, contact David Hance at [david.hance@ncdenr.gov](mailto:david.hance@ncdenr.gov) or 919-707-8122 as soon as possible.

**Grant Selection Process:**

The selection committee will use the pre-established criteria below to rank proposals and make award decisions. A total of 100 points is available. Applicants are encouraged to consider the award scoring criteria as they develop their grant proposals. It is incumbent on the county staff to make the best possible case for grant funding of your proposal to the DEACS staff.



**Award Scoring Criteria** **Available points**

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- 1. Project Planning/Experience** **(0 - 25 points)**  
Does the grant application adequately address all the required items described on pages 6-8? Does the proposal indicate sufficient program planning to ensure the success of the proposed project? Is the proposal well thought-out, well researched and backed by valid facts and assumptions? Did the grantee submit an implementation timeline and accurate budget tables for expenses and revenues?
- 2. Written Plan Assessment** **(0 - 25 points)**  
Does the county's AMH Written Plan that meet the requirements outlined on page 2 to identify AMHs, establish a process for responsible parties to request AMH designation, plan for the deconstruction of identified AMHs, plan for the appropriate removal and recycling of deconstructed components, and a plan for the proper disposal of other AMHs? Are all the elements listed included in the application? Is the rest of the proposal consistent with the Written Plan in the application requirements?
- 3. Cost Effectiveness & Cost Sharing with Homeowners** **(0 - 10 points)**  
Does the proposal effectively utilize limited funds and provide a mechanism for partial cost recovery? How does the proposal utilize homeowner or landowner funds to advance AMH demolition, disposal or recycling? How much will the average homeowner need to pay to get participate in the program? If the county pays a standard charge for demolition and/or disposal and does not directly charge homeowners fees, can the portion of that charge that could be supported by homeowners as revenue be estimated and what is that amount?
- 4. Effectiveness** **(0 - 10 points)**  
Does the application demonstrate that the applicant can reduce the inventory of AMHs in the county and by how many units? How will the project facilitate more AMH demolitions, removals, and recycling in the county? Does the project set a strong example for other counties to replicate? How does the project provide innovative solutions in addressing AMHs in the county?
- 5. Impact on the Waste Stream** **(0 - 10 points)**  
Describe how the project will reduce the local waste stream through the recovery and recycling of metals, window/door frames, steel components, white goods, and other materials? What is the anticipated tonnage recycled based on past data? Can you give a rough estimate of that tonnage if you are a new grantee? Did the applicant provide the names and contact information for at least two demolition contractors and at least two recyclers?
- 6. County Tier Level per NC Department of Commerce** **(5 or 10 points)**  
Grant Tier 1 and Tier 2 will receive 10 points. Grant Tier 3 will receive 5 points. This is in recognition that poorer communities struggling with local economics need to be given greater consideration. For more information, see the following: <https://www.nccommerce.com/grants-incentives/county-distress-rankings-tiers>.
- 7. Priority Project:** **(0 - 5 points)**  
ONLY NEW GRANTEES requesting an AMH Cleanup grant with a planning grant are regarded as priority projects. To clarify, these are those counties that have never applied for a grant.
- 8. Partnerships with Other Communities** **(0 - 5 points)**  
Does the proposed project work in partnership with one or more communities to expand the project scope? Please include documentation of support from the partnering community (i.e., a resolution, letter of intent, letter of fund transfer, etc.) and the contact information of the partnering entity. A one-party proposal will receive zero (0) points; multi-party proposals (involving cash match from all participants) will receive the maximum of 5 points.

*Failure to address the Award Scoring Criteria above could result in a low score and could impact the ranking and funding of the proposed application.*

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)

**AMH Application Requirements:**

The following outline indicates what applicants **must** include in their proposal for the application to be considered complete. Proposals that fail to provide all of the required information or that fail to follow the format below may not compete well and may not be considered for funding.

**1. Contact Information**, including:

- Name and title of main contact
- Organization
- Address
- Phone number
- E-mail address
- County's Federal Employer Identification Number (EIN)
- County's NC Department of Commerce Tier Designation

**2. General Requirements:**

- ✓ Written statement indicating that the applicant does not have an open AMH grant contract with DEACS.
- ✓ Written statement indicating that the applicant has completed and submitted the required Local Government Solid Waste and Materials Management Annual Report for FY2018-19. The county solid waste staff should have this information.

**3. AMH Program Description:** Application must include a detailed description of the County's AMH Program. Copies of program materials, such as ordinances, plans or reports **shall NOT be accepted** as a substitute for providing a description of each of the following program elements:

- Please specify the length or term of the grant (one or two years).
- Description of the county's AMH program implementation history, how the county identifies AMH units for deconstruction, and the process used for the selection of the contractor(s) that will perform deconstruction services (if applicable).
- A description of the program approach to sharing the cost of deconstruction with responsible parties and a description of the process for recovery of funds from responsible parties. Does the program waive homeowner fees under some circumstances? If so, please explain.  
*Please note that the statutes governing the AMH program require DEQ to place a strong emphasis on cost recovery from responsible parties. Counties applying for an abandoned manufactured home (AMH) grant expected to articulate their approach to seeking funds from responsible parties.*
- A description of the program approach to deconstruction operations, including:
  - Will deconstruction activities be performed by county staff or a contractor? Will county staff oversee or supervise deconstruction activities?
  - Will non-recycled deconstruction debris be directed to a specific landfill(s) for disposal? If so, provide the name and location of the landfill(s) to be used.
  - Provide the contact information for each demolition contractor pre-qualified for bid, anticipated to bid on AMH demolition(s). For new grantees, provide contractors who could potentially be an abandoned manufactured homes (AMH) contractor for this grant. There needs to be a minimum of two persons or firms noted in the application.
- A plan for meeting basic recycling requirements when managing AMH units. At a minimum, all metals, including siding, roofing, chassis, and window frames should be recycled. Provide the contact information for each recycler the program will use, with a minimum of two persons or firms noted in the application.
- A plan for removal and proper management of mercury thermostats, fluorescent lights, or any other mercury containing product at the site, including the name and contact information of the entity receiving them from the program.
- A plan for the removal and proper management of white goods, tires and other materials banned from disposal in North Carolina.



- An estimate or projection of the number of AMH units intended to be managed during the grant term and the length of grant term requested (one or two years).
- A plan for gathering and tracking program data including the number of units managed and the tonnage and types of materials recycled and disposed for each unit (data on materials landfilled and recycled is required to be included for each project when seeking reimbursement of grant funds).

**4. Timeline for Implementation of AMH Program:** The applicant should specify desired the length of contract sought and the projected dates of grant contract term. The timeline must include a bulleted list with key implementation dates for the following grant project elements:

- Projected date of initiation of deconstruction activities during grant term; and
- A date showing the completion of the AMH Grant Final Report prior to the end of contract term (typically shown as last day of contract term).

**5. Program Budget:**

Applicants must submit a project budget in the form of two tables, one for expenses and one for revenues. Expenses and revenues should be estimated for individual AMH units.

Expense Table: Provide estimated per unit expenses and the number of AMH units projected to be deconstructed during the grant term. Typical expense items may include program promotion and advertising, program supplies and equipment, contractor costs for deconstruction/disposal, landfill tipping fees, hazardous materials handling costs, and program administration costs (local labor and/or fees paid to consultants or third-party administrators). If your program intends to seek grant funds for the support of program administrative costs, please provide detail in descriptive text. Applicants that do not include administrative costs in their program budget will not be eligible for the reimbursement of administrative expenses.

Revenue Table: Provide the proposed amount of the state grant awarded, local government funds for mercury recycling from thermostats collected, responsible party fees, county mobile home permitting fees used to support the program, revenues from other government for joint projects with the applicant, and any other source of revenue for the project. The estimated per unit revenues and the projected number of units to be deconstructed during the grant term should also be identified.

The revenue table must specify any existing or new fees to support the county's AMH program. If you are awarded state funds based on the merits of your grant application, you must show those funds in this table as well as other revenue sources. If an AMH grant applicant has commitments for revenues from another county or a municipality within the county, the total amounts must be entered in the applicants AMH Program Revenue Budget Table as matching funds. Any other revenue that is not a part of the grant or the grant match needs be listed under other.

Sample budget tables can be provided upon request. Please contact David Hance for assistance at [david.hance@ncdenr.gov](mailto:david.hance@ncdenr.gov) or 919-707-8122.

**6. Written Plan for the Management of Abandoned Manufactured Homes:** Provide a copy of county's written plan for the management of abandoned manufactured homes. See "Required Written Plan" section on page 2 of this document for more information. *Failure to submit an actual Written Plan referenced on this page and the bulleted list may result in an application deemed incomplete by DEACS and return of the application to the county.* Applicants must address each bulleted point shown on that list.

**7. Important Reminders for AMH Applicants:**

- ALL applicants** must respond to each of the items outlined above in the section titled "**AMH Application Requirements**" of this grant RFP (see pages 6-8);
- The **Written Plan** for your county as required under statute as shown on page 2 and referenced above must be included with this application;

- ❑ **All applicants** must address the “**AMH Grant Award Scoring Criteria**” outlined on page 5 to be considered for AMH funding. Failure to adequately address items in this section may result in a lower score when compared to other grantee applications and may negatively impact funding given for your proposal.

There is no limit on the number of times a county can participate in the AMH Grant Program, but to be eligible to reapply a county must be in good standing with the abandoned manufactured home (AMH) Grant Program and with other grant programs operated by DEACS, and the county must be in compliance with all solid waste statutes and rules as determined by the N.C. Division of Waste Management.

**If Selected for Funding:**

DEACS anticipates that applicants selected for funding will be notified by Monday, January 6, 2020. DEACS will notify the applicant by email. Successful applicants must accept or decline the offer within the timeframe provided by DEACS in the award letter.

- As a condition of the review process and grant award, DEACS may work with applicants to revise initially submitted proposals before entering a contract. Any changes to initial proposals must be approved by DEACS and the applicant, and the resultant final grant application will become an attachment to the grant contract.
- DEACS will complete a compliance review with the N.C. Division of Waste Management related to North Carolina solid waste statutes and rules. Prospective grantees will not be awarded a contract unless and until all regulatory and compliance issues are resolved, as independently verified by the Division of Waste Management.
- DEACS will submit a request through the DEQ contract processing system for a grant contract. Grantees must act to execute the resultant grant contract without excessive delay.
- Successful applicants will be required to register with the state’s e-procurement system using the same address provided in the applicant’s proposal. To register in the state’s e-procurement system, please visit the following link: <https://vendor.ncgov.com/vendor/register-new-vendor?execution=els1>.
- If a county is granted a larger portion of funding due to the ranking of grant by DEACS, then the county grant manager needs to let us know if you will need a two-year grant as opposed to a one-year grant prior to award being made.

**Proposals NOT Selected for Funding:**

- If a complete application cannot be funded in the year submitted, it will be placed into a pool for the next grant round and may be funded depending on funding availability and competitiveness of the proposal among the pool of applicants. Funding is subject to availability and is determined on an annual basis. Staff may work with the applicant to assist the county in developing a grant application and AMH Program prior to the next grant round.

**Other General Terms and Conditions:**

All grantees are subject to the following terms and conditions. Additional terms and conditions will be outlined in the awarded grant contract.

- **EIN and NC E-Procurement Registration** – Grantees will be required to provide the local government’s Federal Employer Identification Number (EIN) and to register with the state’s NC E-Procurement system before a contract can be initiated. You may register for NC E-Procurement using the following link: <http://eprocurement.nc.gov/>



- **Reimbursement** – All funds for DEACS grants are distributed on a reimbursement basis. Requests for reimbursement can only be made after the grantee has completed purchases associated with the grant demolition project or a planning grant. Reimbursement requests must include copies of invoices on forms approved by the DEACS staff. Each reimbursement request must include a copy of the paid invoice(s) and a Project Summary Form. To minimize the amount of time spent managing reimbursements, requests for reimbursement should be submitted on a quarterly basis or when a grantee has accumulated a minimum of 5 deconstructed units. **Purchases made before a grant contract is signed by both DEQ and the grant recipient will NOT be reimbursed.**
- **Reporting Requirements** – There are two separate reporting requirements associated with the AMH Grant Program. Please see page 10 of this document for more information.
- **Final 10% of Grant Funds** – DEACS will continue to reimburse grantees until 90% of the award amount has been expended. The final 10% of grant funds will be held until an approved final report has been received by DEACS. *The report must be received and approved prior to the end date of the contract.* All final requests for reimbursement must be received within 30 days of the contract end-date or all remaining grant funds will be forfeited.
- **Extensions** – No-cost time extensions for grant contracts are possible, but not guaranteed. Grantees seeking no-cost time extensions must request an extension 60 days prior to the contract end date; extension requests received less than 60 days prior to the end date may be denied. The request for extension must indicate the reason that the extension is being requested (i.e., why the project cannot be completed on-time). Any request for an extension must include a new timeline of project milestones and a new budget. DEACS reserves the right to decline any request for extension from an AMH Grantee that has had limited deconstruction activity during the term of their grant unless the Grantee has a plan to actively increase program activity. AMH Grants are limited to no more than two (2) no-cost time extensions.
- **Publications** – Documents and publications associated with a grant contract should be printed on recycled paper containing at least 30 percent post-consumer content.
- **Record Keeping** – Comprehensive record keeping is required for continued participation in the AMH Grant Program. At a minimum, counties should maintain records including information on all program costs incurred by the county, proof of payment for program related expenses, all costs recovered, tonnage of material disposed, tonnage and types of materials recycled, the final disposition of mercury thermostats, and “before” and “after” photos of each deconstruction site. These records should be maintained on a unit by unit basis. Failure to maintain these records may result in decreased reimbursement from DEACS and loss of eligibility to participate in the AMH Grant Program.

**AMH Grant Program Reporting Requirements:**

Any county that receives funding from the AMH Grant Program will be required to complete two (2) different reports.

- **Fiscal Year Progress Report** – This report is due on August 1<sup>st</sup> for each fiscal year ending June 30<sup>th</sup> during which an AMH grant contract has been in place. If the grant contract term bridges two fiscal years, then a separate Fiscal Year Progress Report will be required for each fiscal year. Grantees will need to report units demolished by the county with grant funding and units demolished without use of grant funds. *(Note: an AMH disposed of by the homeowner or under a private contract without county involvement should not be included in this fiscal reporting or final reports on grants).*
- **AMH Grant Program Final Report** – All grantees must complete and submit an AMH Grant Program Final Report due on or before the grant contract end date. A draft of the AMH Grant Program final report should be submitted 30 days prior to the grant contract end date, and a final version must be received by the end of the grant contract term.

For more information about AMH grant program reporting requirements, please contact David Hance at [david.hance@ncdenr.gov](mailto:david.hance@ncdenr.gov) or 919-707-8122.

**A Final Word on Grant Writing:**

Proposals may receive low scores or even be rejected because applicants fail to follow the instructions outlined in this document. Applicants stand a better chance of success if they include all the required components of the respective format. Information submitted should be thoroughly completed, clear and concise and demonstrating thoughtful planning. Poorly prepared proposals create uncertainty about the project goals and intended results. Clear details will provide grant proposal reviewers confidence regarding the proposal. Applicants with questions are encouraged to contact DEACS for more information prior to application submittal.



# Burke County Community Development

**Building Inspections      Planning      Code Enforcement**

David Hance  
Abandoned Manufactured Home Program Administrator  
Division of Environmental Assistance and Customer Service  
North Carolina Department of Environment Quality

December 3, 2019

Re: Request for Proposal for the Abandoned Manufactured Homes Grant Program

Mr. Hance,

Burke County would like to formally submit the following information for consideration and acceptance into the Abandoned Manufactured Homes Grant Program. The purpose of this request is to assist citizens and the county with the removal of nuisance manufactured homes that have visual and environmental effects on the landscape of Burke County.

Burke County is a Tier 2 county located in western North Carolina, divided into thirteen townships. The Census estimated population in 2017 was 88,898.

The County has received AMH grants in the past and has continued success in their implementation of the program. The department has been receiving inquiries about the program already identified eight manufactured homes that could apply to this program. As part of this cover letter, I am certifying that we do not have an open AMH grant contract with DEACS and that the County has submitted its Local Government Solid Waste and Materials Management Annual Report for FY2018-19.

Burke County is requesting to be accepted into this program in order to facilitate the removal of these violations. This program will benefit the citizens of the county by providing a means to remove homes to individuals who may not have the financial means to remove the homes themselves. Other citizens of the county will also benefit from the reduction in environmental and safety concerns caused by these structures.

Sincerely,



James Marler  
Code Enforcement Officer  
Burke County Community Development Department

P.O. Box 219, 110 North Green Street, Morganton, North Carolina 28680  
Email: [comdev@burkenc.org](mailto:comdev@burkenc.org) Telephone: (828) 764-9030 – FAX: (828) 764-9021

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)

# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Abandoned Manufactured Home Program Grant Application

### Contact Information

**Contact Person:** James Marler, Code Enforcement Officer  
**Organization:** Burke County Community Development Department  
**Mailing Address:** PO Box 219, Morganton NC 28680  
**Phone:** (828) 764-9030 / (828) 764-9035  
**Fax:** (828) 764-9021  
**E-mail:** james.marler@burkenc.org  
**Federal EIN:** xx-xxx0280  
**NCDOC Tier Designation:** Tier 2

### AMH Program Description

The following is a plan for administration of an Abandoned Manufactured Home program in Burke County. Following the program description are excerpts from the 10 Year Solid Waste Plan and the Burke County Environmental Compliance Ordinance that apply to this program.

### **Length of Term**

Burke County is requesting a one-year term for the AMH Grant.

### **Implementation History**

Manufactured homes have been historically addressed through the Burke County Zoning Ordinance, which restricts the use to residences only and outlines criteria for placement and appearance. In February 2009, the Burke County Board of Commissioners approved an Environmental Compliance Ordinance which further addressed the issue by disallowing abandoned manufactured homes. These ordinances are enforced by the Code Enforcement Division of the Community Development Department.

To address the backlog of abandoned manufactured homes, Burke County applied for and received AMH grants in 2009 and 2015. Through that time, the Department has removed 8 units from the county and improved the implementation of the program.



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Identification

Abandoned manufactured homes are identified by the Code Enforcement Division through written citizen complaint, tax listings, or through direct observation by County staff. Each unit is assigned a case number and investigated by Code Enforcement officers. Responsible parties are identified through tax records and GIS information as well as personal interviews.

## Selection for Program

Homes that have been identified are selected to participate in the program by the Planning Director with input from the General Services Director and the Code Enforcement Supervisor. Property owners may apply in writing to participate in the program however, this does not guarantee acceptance. Eligible homes are prioritized for removal on the basis of hazards created by the home, property owner's ability to remove the home without assistance, accessibility to the home, and nuisances created by the home. All homes are selected and processed in accordance with Article 1X of the Environmental Compliance Ordinance.

## Contractor Selection

When a unit is approved for demolition by the County, the department hires an outside contractor to complete the work. Contractors are selected by a lowest responsible, responsive bidder format as guided by County purchasing policy and State purchasing law and regulation. These removals generally fall within the informal contractors bidding range. Projects are advertised publicly on the County website and contractors that have previously bid on or expressed interest in the removals are notified of the project directly. A list of the direct contacts is maintained by the department. Once awarded, the contractor has 30 days from the signature date to complete the demolition project.

The County is considering moving to an annual contract for AMH removals. Through the last decade of administering the program, we have found that the more a contract does the removals, the more efficient they become at separating out recyclables, mercury thermometers, and white goods. By switching to an annual removal contract, we expect to increase efficiency, decrease costs, and minimize staff time spent on the bidding process.

The annual contract would use the same lowest responsible, responsive bidder format and have the contractors identify a price per removal for single-wide and double-wide units. We would then give them 30 days per unit for removal as we do with our standard contract.

# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Cost Sharing and Recovery

Burke County's removal program gives preference to applicants who are willing to help share in the cost of removal. That primarily comes in the form of the tipping fee at the Burke County landfill but can extend to a cost share on the removal of the unit. In the case of an absent or non-responsive owner, the County attempts to recover the expended funds through a property lien.

### Tipping Fees

Tipping fees will be paid for by the property owner. These fees will be applied to the Abandoned Manufactured Home line of the Code Enforcement Budget in an effort to make this program self-sustainable.

### Waiving Fees

Tipping fees can be waived or reduced for this program in the interest of promoting compliance with the ordinance and to expedite removal of homes for individuals showing financial hardships or special circumstances. This will be at the sole discretion of the General Services Director with input from the Planning Director. Recycling revenue will most likely be minimal however may apply to offset the cost of removal for the county or the property owner, again at the discretion of the General Services Director.

### Process for recovery of funds

Any funds expended by the county may be attached to the property in the form of a lien. The department works with the County attorney to file the lien on the property after the removal is completed. In addition, some amounts of money may be collected utilizing the state debt setoff program.

## Deconstruction Operations

### Deconstruction Activities

The County contracts out the deconstruction of abandoned units through a competitive bidding process. These contracts are administered by the department directly and the Code Enforcement officer is responsible for the oversight of the contract.



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Non-Recycled Debris

The contractor is responsible for taking all non-recyclable materials to the Burke County Landfill located at 2500 Marsh Trail, Morganton, NC 28655. The Contractor is responsible for providing documentation from each trip made to the landfill and all fees incurred.

## Demolition Contractors

The County has used several different contractors in the past and all are pre-qualified to bid on future projects. Additional contractors may be considered for advertised projects but are instructed to supply examples of similar projects. Previously used contractors:

- Bucks Grading & Backhoe 828-403-4534
- S& L Grading and Hauling 828-413-4089
- Foothills Grading & Demolition 828-302-0490

## Recycling Requirements

Demolition waste and recycling of materials is described under Page 7 through Page 16 of the '*Burke County Ten-Year Solid Waste Management Plan (FY 2006-16)*'. The General Services Director and their staff will identify and monitor the recycling of materials on an abandoned manufactured home subject to this program. Materials will be separated in accordance with the current procedures approved by the General Services Director. The landfill currently manages most types of recyclables that may be found in a manufactured home.

If a third party is used to dispose of the manufactured home, then the private entity is responsible for the separation and transportation to the landfill of recyclables found within. These materials must be disposed of in a manner consistent with the current operational procedures at the landfill.

## Removal of Mercury Thermostats

Thermostats will be recycled at a designated "Thermostat Recycling Corporations" facility. Facilities are located in Hickory as well as other nearby cities. <http://www.thermostat-recycle.org/>

## Removal of white goods

White goods are processed at the county landfill as well as all container sites.

# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Estimated Number of units to be managed 2020/2021:

For this fiscal year the county will attempt to remove six to seven manufactured homes.

## Program Data

Every unit identified is assigned a case number and a file is created. Through every step of the process, all documentation is added to the file. When the unit is deconstructed, the contractor is required to provide a breakdown of quantities/amounts of recyclable materials, white goods, mercury thermometers, and non-recyclable materials. This data is added to the individual file and aggregated into a larger AMH program file.

## Timeline

- **March 1, 2020:** Implement demolition operations for AMHs in the county;
- **March 1, 2021:** Final Report and Final Reimbursement Completed and Approved by NC DEQ DEACS

**Burke County 2020 PROGRAM COST TABLE**

Program Expenses - Singlewide Units	Cost Per Unit	Projected @ 6 - 7 Units
Cost to Remove 6 to 7 AMHs	\$ 1,500.00	\$ 10,000.00
Asbestos Checks (Free)	\$ -	\$ -
Disposal of Mercury Thermostats (Free)	\$ -	\$ -
<b>Total Projected Expenditures</b>	<b>\$ 1,500.00</b>	<b>\$ 10,000.00</b>

Burke County Program Revenues	Projected @ 6 - 7 Units
Projected AMHP Grant Revenue (Tier 2)	\$ 10,000.00
Tipping Fees (\$350.00 x 6 - 7 Units)	\$ 2,333.10
<b>Total Projected Revenues</b>	<b>\$ 12,333.10</b>

## Attachments:

- **Written Plan for Burke County AMH Program;**
- **Relevant Pages of the Burke County Ten-Year Solid Waste Management Plan**

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Written Plan for the Management of Abandoned Manufactured Homes in Burke County

**Current Program:** Abandoned Manufactured Homes are addressed in compliance with NCGS 130A-309.99 and Article IX of the Burke County Environmental Compliance Ordinance. Homes are identified by code enforcement officials by several means that include but are not limited to investigations as a result of a written complaint, by personal observation during daily duties, and from tax listings. Citizens may also declare their manufactured home abandoned. This is done in writing to the Planning Director or by listing the home as abandoned on tax records.

Code enforcement officers will contact the responsible party to notify them of the ordinance and allow for the owner to remove the home on their own. Failure to do so will result in a hearing before the Board of Commissioners in accordance with NCGS 130A-309.99D and Section 1203 of the Environmental Compliance Ordinance. If an order is passed by the board to remove the home, a timeline of 90 days is given to comply.

Upon receipt of the written notice, the responsible party has 90 days to remove and dispose of the manufactured home in accordance with all pertinent State Rules and Laws, and County Ordinances. This includes but is not limited to the disconnection of all utilities, the removal of any hazardous or recyclable materials within the home and their disposal, and all associated permits and fees. Any person who demolishes AMHs in Burke County must comply with all county ordinances, state rules and state laws related to AMH Grant demolition and disposal regardless of whether they are doing this under the grant or without grant support and final deposition of materials from the site must follow solid waste rules in NC.

Failing to comply with an order for removal from the county will result in the county taking action to have the home removed. This may be done by contracting through a third party or utilizing county resources and personnel. Third party contractors will be responsible for the removal of any hazardous or recyclable materials within the home before disposal. If county resources are used, the General Services Director or his designee will determine what parts of the home shall be removed or recycled prior to disposal. Manufactured homes may be disposed of at the landfill in accordance with the current fee schedule in either a deconstructed or intact state.

The responsible party for the manufactured home in violation of this section will be liable for any costs incurred by the county or a third party regarding the removal of said home.

**Intended Actions:** This program will help reduce the amount of solid waste present in the county and help reduce unsanitary and unsafe conditions caused by abandoned manufactured homes.



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Burke County's Responsibilities

The Code Enforcement Division of the Community Development Department will administer the program by identifying target homes, processing bids, providing follow-up after removal, requesting funds from the state, complying with all reporting procedures, as well as any other duties that become necessary in regard to this program.

The county will further continue to provide disposal of recyclable, white goods, and construction waste for use by property owners and contractors.

## Contractors Responsibilities

Contractors will not be allowed to dispose of intact manufactured homes at the landfill. All homes managed by contractors for this program will be deconstructed. Contractors will be allowed 30 days from signing of the contract to remove a home unless an extension is granted by the Planning Director. The contractor's responsibilities are outlined below. These guidelines are taken from a Contractor's Agreement that will be completed prior to removal of any homes. In the following, "I" denotes the contractor.

- 1) Upon notification of bid approval, I will contact the property owner to coordinate an onsite inspection to verify any hazards, ensure permitted easements to allow access for all equipment and personnel, and notify of time and date of deconstruction.
- 2) I agree that the deconstruction and removal of the home will occur within a thirty (30) day period from being notified of project award, unless an extension is granted by Burke County Planning and Development.
- 3) I am aware that if awarded the project and fail to complete the deconstruction and removal within a thirty (30) day period and a time extension is not granted, the project will be reopened for bidding.
- 4) I agree to deconstruct all homes onsite. No homes will be allowed to be disposed of intact or transported to another site for deconstruction.
- 5) I agree that the deconstruction of the home will be performed in a manner that will prevent any debris from becoming airborne or otherwise affecting any adjacent properties.
- 6) I agree that the debris from the deconstructed home shall be transported on a vehicle capable of safely moving the materials from the demolition site to a certified landfill or recycling facility. During transportation, all debris must be covered with a tarp



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

or fabric cover and shall be properly secured so not to allow any debris to fall from the vehicle.

7) I agree to level, compact, or fill any portion of the property that is affected by the deconstruction and removal of debris. I agree to remove and replace any contaminated soil that results from the spillage of any fluids or hazardous materials from equipment associated with performing deconstruction or removal of the structure.

8) I am aware that all materials from the demolition of the manufactured home must be removed from the property before payment will be issued.

9) I am aware that any accessory structures or other debris located on the property are not considered part of this project. Burke County will only pay for debris removal that is a result of the deconstruction of the manufactured home. Other debris removed from the property will be the responsibility of the property owner.

10) I agree to take measures during the demolition and removal so as not to cause any unnecessary damage to the property or any easements to or from the site.

11) If any damage to the property occurs during the demolition and removal process, I agree to notify Burke County Planning and Development prior to leaving the property.

12) I agree to provide and maintain a level of insurance that will cover any damage or injuries that may occur to property or persons while performing the service of deconstruction and removal of the structure.

## Property Owner's Responsibilities

Property owners are required to complete a release form outlining their responsibilities when requesting assistance from Burke County in removing their manufactured home. These responsibilities as listed in the release are listed below.

1) Upon completion of this agreement by the property owner, the county will coordinate the deconstruction and/or removal of the abandoned manufactured home identified as  
(Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ VIN \_\_\_\_\_  
\_\_\_\_\_) located at \_\_\_\_\_ by independent contractors selected by the County at its sole discretion or by existing County resources.

2) Prior to deconstruction and/or removal of the manufactured home, the property owner agrees to disconnect or cause all utilities to be disconnected including

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# Burke County Community Development

Building Inspections

Planning

Code Enforcement

water and electricity, identify and mark septic system location, and cause reasonable access to the manufactured home for trucks and heavy equipment.

3) All white goods and appliances must be removed from the home by the property owner prior to deconstruction. Other miscellaneous personal items may be left in the home for disposal however said items will be destroyed in the deconstruction process.

4) Property owner acknowledges that any use of the site previously occupied by the manufactured home identified herein must comply with all Federal, State, and County regulations.

5) Property owner acknowledges that the manufactured home in question was not brought into Burke County for the purpose of seeking assistance with disposal.

6) In consideration of acceptance of this agreement, the Property Owner and his agents, servants, successors, heirs, administrators, executors, and assigns, do hereby fully release, remise, acquit, and forever discharge and hold harmless the County of Burke, its agents, servants, insurers, and assigns from any and all claims in any way related to the identification, removal, transportation, storage or deconstruction of the abandoned manufactured home from the premises or property of Property Owner past, present, or future, as well as any and all claims, demands, actions or causes of action or suits of law or in equity of whatever kind of nature, whether based upon alleged contract, vicarious liability, or any other legal action or equitable theory of recovery past, present, or future, which are now known or should have been known at the time of signing of this agreement, which are suspected to exist or reasonably should have been suspected to exist at the time of the signing of this agreement, which are anticipated or reasonably should have been anticipated at the time of the signing of this agreement or which have arisen or are now arising in connection with the events or transactions described in the above-referenced paragraphs. The effect of this paragraph is to be a general release of all claims as against the County of Burke and all other claims that are now known or should have been known at the time of the signing of this agreement.

7) If any paragraph or part of this agreement is found void or unenforceable, the remainder of this agreement shall not be affected by such finding.

8) The undersigned have read this agreement and acknowledge that no promise or representation of any kind, other than as contained herein, has been made by the County of Burke or anyone acting for it. The parties of this agreement have relied fully and completely on their own judgment in executing this agreement.

9) Property owner will be held responsible for any unrecoverable cost or expense including landfill tipping fees incurred by Burke County for removal of the



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

manufactured home. Failure to compensate the county will result in civil action against the property owner to include but not limited to a lien placed the property.

## **Burke County Environmental Compliance Ordinance in regard to Abandoned Manufactured Homes**

### Abandoned Manufactured Home (Section 402)

Any manufactured home that is both (1) vacant or in need of extensive repair and (2) an unreasonable danger to public health, safety, welfare, or the environment. *State law reference – G.S. 130A-309.99B(1).*

## **Article IX. Abandoned Manufactured Homes**

### **Section 900. Intent**

The intent of this Article is to protect the public health and the environment through the deconstruction of abandoned manufactured homes to reduce blight and attractive nuisances. It is a policy of the County to promote the removal of reusable or recyclable materials to reduce the impact of such solid wastes and production of said materials on the environment.

### **Section 901. Abandoned Manufactured Homes Unlawful**

#### Section 901.01 Abandoned, Nuisance, and Junked Mobile Homes Unlawful

It shall be unlawful for the registered owner or person entitled to possession of a manufactured home and for the owner, lessee, or occupant of the real property upon which the manufactured home is located to leave, allow, or suffer the manufactured home to remain on the property after it has been declared an abandoned manufactured home or a public nuisance.

### **Section 902. Notice Requirements for Abandoned Manufactured Homes**

- a. The County shall notify the responsible party and the land owner for each identified abandoned manufactured home consistent with the requirements of G.S. 130A-309.99D in writing and shall be served on the person as set forth therein.
- b. The Board of Commissioners shall hold a hearing to determine and decide whether the manufactured home is abandoned as set forth in Section 1203 herein.

### **Section 903. Removal of Abandoned Manufactured Homes**

- a. If, after notice and hearing, the Board of Commissioners decides that the manufactured home under consideration is abandoned, the authorized County official shall state in writing the Board's finding of fact in support of that determination.

# Burke County Community Development

Building Inspections

Planning

Code Enforcement

- b. The owner or responsible party shall be given ninety (90) days from receipt of the written notice to dispose of the abandoned manufactured home in a legal manner.
- c. If the owner or responsible party fails to comply with this order, the County shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and arranging to have the home deconstructed and disposed of in a manner consistent with the Burke County Comprehensive Solid Waste Management Plan.

## **Section 904. Protection against Criminal or Civil Liability**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked manufactured home, for disposing of such manufactured home as provided in this Ordinance.

## **Section 1203. Hearing before Disposal of Abandoned Manufactured Homes**

- a. The owner of an abandoned manufactured home is entitled to a hearing on the intent to declare the manufactured home "abandoned" and dispose of said manufactured home.
- b. The owner of the manufactured home shall be provided written notice served as provided by Rule 4(j) of the Rules of Civil Procedure, G.S. 1A-1. The notice shall disclose the basis for the action and advise that a hearing will be held before the Burke County Board of Commissioners.
- c. The hearing shall not be less than ten (10) days nor more than thirty (30) days after serving the notice.
- d. The decision to use the process set forth herein for Abandoned Manufactured Homes as set forth in G.S. 130A-309.99 does not preclude or prevent the County from seeking condemnation of the structure as set forth in G.S.153A-366-371.

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## Burke County General Services

P.O. Box 1486 • Morganton, N.C. 28680-1486  
100 Government Drive • Morganton, N.C. 28655  
828-439-4391 (telephone) 828-439-4396 (fax)  
Jeffrey Boss - Engineer/Director

Page 7 through Page 16

# Ten Year Solid Waste Management Plan

(Includes Abandoned Manufactured Home {AMH} Approved Additions)

FY: 2006-2016

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)

**Construction and Demolition Waste**

It is estimated that construction and demolition waste can be reduced by at least 0 tons in FY 2009-10, 957 tons in FY 2012-13 and 1,500 tons in FY 2015-16. The proposed reduction methods and targeted wastes are shown in Table 9.

**Table (9) Targeted Construction and Demolition Waste Reduction, FY 2009-10 and 2012-13**

REDUCTION METHOD	TARGETED MATERIALS	EST. TONS FY 2009-10	EST. TONS FY 2012-13
Recycling	Metal	0	700
Mulching	Wood waste	0	257
TOTAL		0	957

Source: Staff estimates

**Table (9a) Targeted Construction and Demolition Waste Reduction, FY 2015-16**

REDUCTION METHOD	TARGETED MATERIALS	EST. TONS FY 2015-16
Recycling	Metal	1,200
Mulching	Wood waste	300
TOTAL		1,500

Source: Staff estimates

**Part IV. SOLID WASTE MANAGEMENT METHODS:  
 ASSESSMENT OF PROGRAMS AND DESCRIPTION OF INTENDED ACTIONS**

Each solid waste management method as required by North Carolina G.S. 130A - 309.09A (b) is described below. Each section includes an assessment of the current program and a summary of the intended actions.

**A. Source Reduction**

**Current Program:** The County has one employee that presents educational programs to civic groups and students, including one on reducing packaging. The County also has available to businesses and residents a junk mail termination kit. The kit contains postcards addressed to the major firms that sell names and addresses to advertising firms. The cards will enable residents to request removal of their names from mailing lists supplied to advertisers.

The community and school education programs also address source reduction and will contribute to the amount of waste reduced.

**Intended Actions:** The County will be offering the Enviroshopping Program to different civic groups, retirees, clubs and etc., this program educates people about making environmentally friendly purchasing choices. Topics to be covered include buying reusable items, recycled items, and recyclable packaging.



The solid waste department will develop, for the County Manager, a source reduction resolution that will contain language encouraging County departments to use fewer disposable items and purchase products with longer life. The resolution will promote all County offices to use electronic memos in lieu of paper memos, as well as require all government documents that contain multiple pages to be double sided.

The Industrial Solid Waste Commission will hold one source reduction workshop directed toward non-residential waste each year to be advertised in *The News Herald* and member mailings. It is expected that the non-residential source reduction program can reduce future waste by a few tons. Solid waste staff will conduct commercial and industrial waste audits for large contributors to the waste stream to help determine ways to reduce their waste stream.

**B. Collection of Solid Waste**

**Current Program:** Waste is collected and hauled by one private firm (see Table 10) for some of the County’s municipalities. As shown in Table 1, 67% of Burke County residents live in unincorporated areas without curbside collection programs. Therefore, the majority of the residential waste is collected by the County from five collection (convenience) centers in the rural areas of the County (see page 1). The collection centers are staffed by Burke County employees. An attendant is at each site from 6:30 a.m. to 6:00 p.m., Monday, Tuesday, Thursday and Friday. Saturday hours are 9:00 a.m. to 6:00 p.m. All sites are closed on Wednesday and Sunday. Residential solid waste is accepted at each center in a roll-off container or compactor. The County then hauls this waste to the transfer station at the landfill. A variety of recyclable materials are also accepted at these collection facilities (see Section C).

**Table (10) Waste Hauling Information, FY 2004-05**

<b>PUBLIC &amp; PRIVATE HAULERS</b>	<b>RESIDENTIAL WASTE (YES/NO)</b>	<b>NON-RESIDENTIAL WASTE (YES/NO)</b>	<b>C &amp; D WASTE (YES/NO)</b>	<b>TONS HAULED</b>	<b>DISPOSAL DESTINATION</b>
Burke County	Yes	No	No	13,004.06	Burke County Transfer Station
GDS	Yes	Yes	Yes	29,075.66	Burke County Transfer Station
Blue Ridge Disposal	Yes	Yes	Yes	955.93	Burke County Transfer Station
<b>TOTAL</b>				<b>43,035.65</b>	

Source: Information provided to the planning area by Solid Waste Department

**Intended Actions:** The County will continue to use collection centers to collect waste and recyclables from the rural areas of the Burke County

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**C. Recycling and Reuse**

***Recycling***

**Current Program:** Burke County does not have a stable recycling program. Currently, the County is recycling about 4.6% of the residential waste (see Table 12). Collection centers use roll-off containers to collect materials. Collection center staff instruct residents of proper sorting and material preparation and are available to answer questions.

The total amount of materials recycled by Burke County is shown in Table 11.

**Table (11) Residential Recycling in Tons, FY 2004-05**

Material	County Tons
Mixed Glass	51
Mixed Plastic	24
Aluminum Cans and Steel Cans	13
White Goods	1049
Other Metals	565
Newspaper and Magazines	207
Corrugated Cardboard	14
Tires	1645
<b>TOTAL</b>	<b>3568</b>

Source: Tons recycled derived from County reports

Summary of recycling within the County as it compares with the total waste stream is shown in Table 12. Table 12 does not indicate the amount of recycling currently in process through industrial and commercial enterprises outside of the public waste stream. If the tonnage recycled by the private sector were included the percent of recycling would increase substantially. Regardless, this table clearly indicates the County should focus the majority of the waste reduction effort towards recycling.

**Table (12) Residential Recycling in Tons, FY 2004-05**

BURKE COUNTY	RESIDENTIAL TONS RECYCLED	TOTAL RESIDENTIAL TONS DISPOSED	PERCENT OF RESIDENTIAL WASTE STREAM	PERCENT OF WASTE STREAM
Burke County	3,568	30,270	11.8%	4.6%

Source: Tons recycled and disposed derived from County reports

Comparing the recycling tonnages listed in Table 11 with the estimated waste tonnages and estimated composition from Table 4, shows that there is potential to increase the amount of each material recycled (see Table 13). The table shows that there is plenty of material remaining in the waste stream that can be recycled. According to these figures, the quantity targeted to recycle in Table 7 can be met.

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**Table (13) Comparison Between Estimated Tons Disposed And Tons Recycled, FY 2004-05**

MATERIAL	ESTIMATED RESIDENTIAL TONS DISPOSED	TONS RECYCLED	PERCENT OF ESTIMATED TONS DISPOSED
Paper	12,883	207	1.6%
Cardboard		14	.1%
Plastics		25	.2%
Glass		51	.4%
Metals		1725	13.4%

Source: Tons disposed taken from Table 4, tons recycled derived from County reports

Participation in residential recycling could be increased. Maximizing recovery of residential recyclables would entail increasing participation and possibly increasing the types of materials accepted. Residents of unincorporated areas do not have curbside recycling services. These residents can use the recycling bins at the collection centers.

As stated above, it is unclear how much recycling is being done by industries, businesses, and institutions, but it is clear that there is a large amount of recyclables in that waste stream.

**Intended Actions:** The residential recycling programs are targeted to reduce future waste by 450 tons in FY 2009-10, 1,513 in 2012-13 and 2,350 tons in 2015-16. Table 14 shows the projected tons that will be targeted by type of material. Currently our aluminum and steel cans are being collected together along with mixed paper products; Burke County intends to implement a plan to separate these categories.

**Table (14) Planning Area Recycling Projections, FY 2006-07 to 2010-11**

MATERIAL	2006-07 TONS	2007-08 TONS	2008-09 TONS	2009-10 TONS	2010-11 TONS
Mixed Glass	60	60	60	60	60
Mixed Plastic	30	32	34	36	38
Aluminum Cans and Steel Cans	20	25	30	32	34
White Goods	1,300	1,500	1,600	1,700	1,800
Other Metals	700	800	1,000	1,200	1,400
Newspaper and Mixed Paper	300	600	700	800	900
Corrugated Cardboard	30	70	80	90	100
Tires	1,800	1,800	1,800	1,800	1,800
TOTAL	4,240	4,887	5,304	5,718	6,132

Source: Staff projections, includes current and projected recycling tonnages

It is assumed that residents who currently use the solid waste and recycling collection centers will continue to recycle. Collection center employees have been monitoring recycling habits and have seen a steady increase in the number of people who recycle. Approximately 12% of the residents currently using the collection centers uses the recycling bins. Collection center staff continually educates residents on how to separate materials. They also need to educate residents on how recycling reduces the cost of disposing of trash.

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)

Non-residential recycling is targeted to reduce future waste by several tons in FY 2009-10. Research into potential new recycling markets may prove to be a key to reducing non-residential waste. Markets for computer paper and mixed office paper have the potential to reduce consistently disposed wastes.

In an effort to reduce the amount of non-residential cardboard disposed, the County is working on an arrangement with GDS.

### *Reuse*

**Current Program:** One non-profit program exists in the County (none sponsored by the County Solid Waste Department). Habitat for Humanities located in Morganton collects many of the reusable items in the County and sells them to raise money for their programs. There is also several consignment shops located throughout Burke County that resell goods and used clothing. The local shelter for abused women and children also collects clothing and household items to be given to persons who will be leaving their homes because of domestic violence and starting a new home. Other reusable clothing and household items can be found at the local flea market and at homeowners' garage sales. Several local churches and civic clubs annually have auctions or rummage sales where reusable items are sold. The local radio station has a program called Swap and Shop that also provides a market for reusable goods. Many of our local appliance and furniture stores regularly sell furniture and appliances they have taken as a trade in on new purchases. The area has many antique stores and used furniture stores that keep many unwanted but functional items out of the landfill.

**Intended Actions:** Burke County solid waste staff will investigate Swap Sheds for the County's five convenience centers.

The County solid waste office will contact administrators from the County schools recycling program at each K-12 school in the County and the possibly the local college.

### **D. Composting and Mulching**

#### *Composting*

**Current Program:** Burke County does not have a composting program in place at this time.

**Intended Actions:** Residential composting could reduce waste up to 100 tons per year. According to estimations, there is many tons of organic waste in the planning area's waste stream.

The County solid waste office will contact administrators from the County schools and the possibly the community college about establishing a composting program at each K-12 school in the County and the local college.



### ***Mulching***

***Current Program:*** The County accepts and stores clean wood, pallets and brush from County and municipal residents. Clean wood, brush and pallets are chipped into mulch at the Burke County Landfill and sold locally.

***Intended Actions:*** Clean wood, pallets and brush will continue to be collected at the County landfill for mulching.

### **E. Incineration with Energy Recovery**

***Current Program:*** Incineration with energy recovery is not part of the county's current program. The County considers it an inappropriate waste management option due to the local waste flow, public opinion, and capital/operating costs.

***Intended Actions:*** The County does not plan to use incineration with energy recovery.

### **F. Incineration without Energy Recovery**

***Current Program:*** Incineration is not part of the County's solid waste program, however the Burke County volunteer fire departments dispose of several buildings yearly by incineration to train local firefighters.

The County considers incineration inappropriate waste management option due to the local waste flow, public opinion, and capital/operating costs. There are no regional facilities of this type in any nearby Counties.

***Intended Actions:*** The County does not plan to use incineration without energy recovery.

### **G. Transfer of Solid Waste Outside Geographic Area**

***Current Program:*** Burke County uses a County owned and operated transfer station. The County has a five year contract with Garbage Disposal Service to transport, deliver and dispose of all solid waste from the county's transfer station to Foothills Environmental in Caldwell County.

***Intended Actions:*** The transfer station will continue to operate.

### **H. Disposal of Solid Waste**

***Current Program:*** The Burke County Landfill continues to receive construction and demolition material and has an anticipated operating life of nineteen years.

Burke County has a five year contract with Garbage Disposal Service starting on March 18, 2004 and ending on March 17, 2009. In 2009 the contract will be considered for renewal. If renewing the

contract with Garbage Disposal Service is not in the best interest of the County we will examine contract options with surrounding landfills.

**Intended Actions:** Burke County plans to continue to operate the transfer station and ship waste to Foothills Environmental in Caldwell County. Foothills Environmental has a capacity of more than ten years. The Burke County Landfill also has other disposal options, at this point the life capacity of the John's River Landfill is expected to last more than ten years. If the construction demolition regulations change, Burke County plans to construct a new construction demolition landfill at the John's River facility. Burke County also sells mulch that is generated from our collected brush, wood and yard waste.

Construction and demolition waste will continue to be managed at the County construction and demolition landfill. Planned methods for reducing this segment of the waste stream should provide additional years of capacity.

**Part V. EDUCATION, SPECIAL WASTES, ILLEGAL DISPOSAL, AND PURCHASING ASSESSMENT OF PROGRAMS AND DESCRIPTION OF INTENDED ACTIONS**

**A. Community and School Education**

*Community Education*

**Current Program:** None

**Intended Actions:** Several educational programs will be developed for presentation to schools and local college. Topics that will be discussed include quality separation of recyclables, true costs of solid waste management, and cost advantages of source reduction.

**B. Special Waste Management**

The management of special wastes is expected to reduce residential waste by several tons.

**Tires**

**Current Program:** Tires are collected free of charge at the Burke County Landfill. They are placed into transfer trailers then picked up by US Tire Recycling and hauled to Concord where they are processed and recycled.

**Intended Actions:** Investigate shredders in order to chip and shred tires. The chips and shredded tires will be used for road base with any excess material being shipped to Foothills Environment in Caldwell County.

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)



### White Goods

**Current Program:** White goods from County convenience centers and municipal residents are stored at the County landfill. Tri-State Scrap Metal removes the CFCs (Chlorofluorocarbon) from the units. After the CFCs are removed white goods are then processed and recycled by Tri-State Scrap Metal.

It is assumed that most white goods are recovered in Burke County. However, to discourage illegal dumping and to encourage proper management, the County collects white goods at collection centers.

**Intended Actions:** White goods collection will remain the same.

### Lead-acid Batteries

**Current Program:** Lead-acid batteries are collected at the five convenience centers as well as the County landfill. Batteries are picked up by a local scrap metal dealer to be recycled.

**Intended Actions:** Battery collections will remain the same.

### Used Motor Oil

**Current Program:** Collection of used oil is provided free to all citizens at the five convenience centers and at the County landfill. Used oil is picked up by US Filter Company at the convenience centers and at the landfill.

**Intended Actions:** The program for used oil collection will remain the same.

### Household Hazardous Waste

**Current Program:** The County has no household hazardous waste collection program at this time.

**Intended Actions:** The County does not have the financial resources available to establish a permanent household hazardous waste collection facility.

### Abandoned Manufactured Homes

**Current Program:** Abandoned Manufactured Homes are addressed in compliance with NCGS 130A-309.99 and Article IX of the Burke County Environmental Compliance Ordinance. Homes are identified by code enforcement officials by several means that include but are not limited to investigations as a result of a written complaint, by personal observation during daily duties, and from tax listings. Citizens may also declare their manufactured home abandoned. This is done in writing to the Planning Director or by listing the home as abandoned on tax records. Code enforcement officers will contact the responsible party to notify them of the ordinance and allow for the owner to remove the home on their own. Failure to do so will result in a hearing before the Board of Commissioners in accordance with NCGS 130A-309.99D and Section 1203 of

the Environmental Compliance Ordinance. If an order is passed by the board to remove the home, a timeline of 90 days is given to comply.

Failing to comply with an order for removal from the county will result in the county taking action to have the home removed. This may be done by contracting through a third party or utilizing county resources and personnel. Third party contractors will be responsible for the removal of any hazardous or recyclable materials within the home before disposal. If county resources are used, the General Services Director or his designee will determine what parts of the home shall be removed or recycled prior to disposal. Manufactured homes may be disposed of at the landfill in accordance with the current fee schedule in either a deconstructed or intact state.

The responsible party for the manufactured home in violation of this section will be liable for any costs incurred by the county or a third party in regards to the removal of said home.

***Intended Actions:*** This program will help reduce the amount of solid waste present in the county and help reduce unsanitary and unsafe conditions caused by abandoned manufactured homes.

### **C. Prevention of Illegal Disposal and Management of Litter**

#### **Illegal Disposal - Operated Sites**

***Current Program:*** The County landfill has a Recycling Code Enforcement Officer who investigates reports of illegal dumping, and has authority to enforce penalties for illegal dumping. Minor cases are investigated and contacted by letter and telephone and asked to clean up the refuse. In a major case of illegal dumping, the Officer visits the offender, issues a warning, and stays in contact with the offender until the illegal dumping is cleaned up; otherwise, a citation is issued.

#### **Litter Management and Promiscuous Dumping**

***Current Program:*** Burke County has a litter management or promiscuous dumping prevention program at this time.

***Intended Actions:*** The state Adopt-A-Highway program is currently under-utilized, the County plans to promote the program at local fairs, festivals, public schools.

### **D. Purchase of Recycled Materials and Products**

***Current Program:*** The County is currently buying recyclable paper and other recycled products off the state contract and from local vendors. The County will continue to buy trash bins and other office supplies made of recycled plastic.

***Intended Actions:*** The County will implement an educational program through the schools to teach children the importance of buying recyclable materials and products. The program will be taught by the Code Enforcement Officer.



**E. Disaster Response**

**Current Program:** Burke County Landfill currently has two locations at the John's River facility of over five acres for disaster debris disposal. If necessary Burke County can also store disaster debris at the Kirksey Landfill and East Burke Landfill sites until it can be transferred to the John's River site. Burke County's employee contact information for disaster debris questions are:

Greg Watts:	828-433-9500	David Ingram:	828-433-9500
Donna Dale:	828-433-9500	Jeff Boss:	828-439-4391

**Intended Actions:** Burke County's disaster debris disposal plan will remain the same.

**Part VI. SOLID WASTE COSTS AND FINANCING METHODS**

**Description and Assessment of Costs:**

**County Description**

Burke County operates a solid waste program. The total budget for the County-operated solid waste program during FY 2004-05 was \$3,476,195. The annual cost of County collection was \$380,000. Disposal costs in the same year were \$2,768,000. Waste reduction programs costs, including recycling, reuse, mulching, etc. totaled \$60,960. Burke County managed 83,393 tons of waste and 3,953 tons of recyclable materials in FY 2004-05. A summary of the County-operated solid waste program costs are shown in Table 15.

**Table (15) County-Operated Solid Waste Program Costs, FY 2004-05**

	<b>COLLECTION</b>	<b>DISPOSAL</b>	<b>WASTE REDUCTION</b>	<b>TOTAL</b>
<b>Program Cost</b>	379,942	2,768,441	60,960	3,209,343
<b>Cost Per Ton</b>	\$4.56	\$33.20		

Source: Burke County Solid Waste Department and Finance Department Records

**County Assessment:**

According to the analysis, the cost of collection and disposal of waste is more costly than waste reduction. It can be assumed that as participation in the waste reduction program increases, the total cost for solid waste management will decrease.

**Description of Financing Methods:**

The current solid waste program is funded through the County household solid waste user fee, property taxes, construction and demolition tipping fees. The tire program is paid for through the tire tax levied by the state. The white goods tax distribution fully supports the white goods and metals recycling program. See Table 16 for a summary of current financing methods.

Attachment: Mobile Home Removal Grant\_0001 (3026 : Accept 2020 Abandoned Manufactured Home Grant)





## Notice of Certain Reporting and Audit Requirements

A recipient or subrecipient shall comply with the all rules and reporting requirements established by statute or administrative rules found in 09 NCAC Subchapter 3M. For convenience, the requirements of 09 NCAC Subchapter 3M.0205 are set forth in this Attachment.

### Reporting Thresholds.

There are three reporting thresholds established for recipients and subrecipients receiving State awards of financial assistance. The reporting thresholds are:

- (1) Less than \$25,000 – A recipient or subrecipient that receives, hold, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  - (B) An accounting of all State financial assistance received, held, used, or expended.
- (2) \$25,000 up to \$500,000 -A recipient or subrecipient that receives, holds uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  - (B) An accounting of all State financial assistance received, held, used, or expended.
  - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
- (3) Greater than \$500,000 – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in the amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  - (B) An accounting of all State financial assistance received, held, used, or expended.
  - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
  - (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

### Other Provisions:

1. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine (9) months after the end of the recipient's fiscal year.
2. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M .0205 shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.
3. Notwithstanding the provisions of 09 NCAC 03M .0205, a recipient may satisfy the reporting requirements of Part (3)(D) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.
4. Agency-established reporting requirements to meet the standards set forth in this Subchapter shall be specified in each recipient's contract.

# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## ABANDONED MANUFACTURED HOME PROGRAM CONFLICT OF INTEREST POLICY

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### Conflict of Interest Defined:

A conflict of interest is defined as an actual or perceived interest by a (Staff Member/ Commissioner) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee/Commissioner has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an Employee and a Commissioner, or a person who is an employee and who hires family members as consultants.

### Employee Responsibilities:

It is in the interest of the organization, individual staff, and Commissioners to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, and personal integrity even though law, regulation, or custom does not require them.

P.O. Box 219, 110 North Green Street, Morganton, North Carolina 28680  
Email: [comdev@burkenc.org](mailto:comdev@burkenc.org) Telephone: (828) 764-9030 – FAX: (828) 764-9021



# Burke County Community Development

Building Inspections

Planning

Code Enforcement

## Acceptance of Gifts:

Employees, members of employee's immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization;
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

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**Subject Title: Comm. Dev. - Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk**

**Presented By: Shane Prisby**

**Summary of Information:** With the Board of Commissioner's approval, the Burke County Community Development Department has applied to and has received a \$68,000 Recreation Trails Program grant from North Carolina Department of Natural and Cultural Resources (NCDNCR) for trail and boardwalk construction on the Fonta Flora State Trail/Overmountain Victory National Historic Trail. This grant requires a \$17,000 match which will come from the Duke Energy CRA funding. This project will cover trail and boardwalk construction from the existing trail on Lake James State Park Land to Canal Bridge on NC 126 which the trail will use to cross Lake James. In order to receive the money, the Board of Commissioners must approve the grant agreement.

**Budgetary Effect:** There is no effect to the County budget. The grant match will come from the Duke Energy CRA funding.

**County Manager's Recommendation:** Approval is recommended.






**Suggested Motion:** To approve the Recreational Trails Program grant contract between the North Carolina Department of Natural and Cultural Resources and Burke County. Further, authorize the County Manager to execute the agreement on behalf of the Board, subject to review and/or revision by the County Attorney.

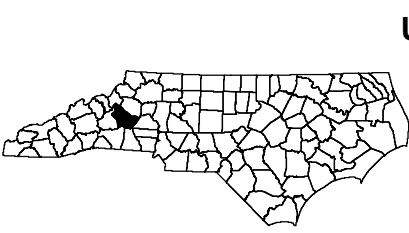




Attachment: Project Specific Map (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

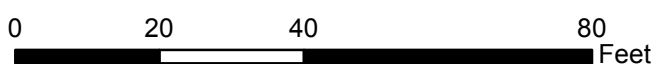
Lake Jam

-  Existing Trail
-  Future Trail
-  New Boardwalk
-  New Bridge
-  New Trail



USGS Marion East Quad  
Catawba River Basin

1 inch = 27 feet



### Burke County RTP 2020 Project OVNHT Boardwalk Project Specific Map



This map is not survey accurate and is for planning purposes only

This Contract is hereby made and entered into this Wednesday, April 1, 2020, by and between the **NORTH CAROLINA DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**, (the "Agency") and the **BURKE COUNTY**, (the "Grantee") (referred to collectively as the "Parties") for the **Fonta Flora State Trail - OVNHT Boardwalk Project**, as described in the Grantee's Response to Agency's Call for Grant Proposals (the "Project").

**1. Contract Documents:** This Contract consists of the following documents, all of which are identified by name as:

**Grant Contract No. RTP2020-7817**

- (1) Grant Contract
- (2) Secretary Award Letter
- (3) General Terms and Conditions
- (4) Notice of Certain Reporting and Audit Requirements
- (5) Federal Certification Regarding Drug-Free Workplace
- (6) Federal Certification Regarding Lobbying
- (7) Federal Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions
- (8) Federal Assurances - Compliance Form
- (9) Application Signature Page
- (10) Insurance Requirement Notification Form
- (11) Grant Administrative and Programmatic Conditions
- (12) Grantee's Response to Agency's Call for Grant Proposals (grantee's application), including line item budget and budget narrative and *if applicable*, indirect cost documentation

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements. The Parties may enter into Contract amendments in accordance with the General Terms and Conditions as described herein.

**2. Precedence Among Contract Documents:** In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.

**3. Contract Period:** This Contract shall be effective for a period of three (3) years from the date of the Secretary Award letter, 20 day of February, 2020, and expires on 19 day of February, 2023.

**4. Contract Procedures:** Once this Contract has been executed and the Secretary Award letter issued, the Grantee shall undertake and complete the Project in accordance with the sequence of steps outlined below, which shall assure expeditious completion considering the purposes of this Contract:

**a. Complete Environmental Review and obtain & abide by any required permits;**

- i. Grantee will obtain all required permits to complete the Project prior to beginning construction. Grantee must provide documentation of the Environmental Review and all required permits to initiate the next step.**

**b. Notify the Grants Manager when the Grantee is ready to begin the Project once they have received a notice to proceed;**

- i. The Grantee may begin to incur expenses for the Project only once they have completed this notification.**

**c. Request reimbursement for eligible expenses at a minimum of every six (6) months;**

**d. Notify the Regional Trails Specialist and Grants Manager when the Project is complete to schedule a final inspection;**

**i. Grantee must complete the Project within the term of this Contract.**

**e. Request final reimbursement prior to the termination or expiration of this Contract;**

**f. Submit a letter to unencumber any remaining funds that were not used for the contracted deliverables.**

**5. Grantee's Duties:** The Grantee provides the Project as described in the Grantee's Response to Agency's Call for Grant Proposals and in accordance with the approved budget therein.

**6. Agency's Duties:** The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents.

The total amount paid by the Agency to the Grantee under this Contract shall not exceed	
sixty-eight thousand Dollars	\$68,000.00

This amount consists of:

Type of Funds	Funding Source	CFDA No.
Other Receipts	FHWA-RTP THROUGH DOT	20.219

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$68,000.00	4602	536425	2803

**a. The Grantee's matching requirement is \$17,000.00 , which shall consist of:**

In-Kind		\$17,000.00
Cash		\$0.00

**b. The Grantee has committed to an additional \$0.00 to complete the project as described in the Grantee's response to Agency's call for grant proposals.**

In-Kind		\$0.00
Cash		\$0.00

The contributions from the Grantee shall be sourced from non-federal funds.  
The total contract amount is **\$85,000.00** .

**7. Conflict of Interest Policy:** Grantee implements a Conflict of Interest policy that meets or exceeds the requirements of N.C.G.S. §143-6.2 (b1). Grantee has filed with the Agency a copy, which is attached, of Grantee's policy addressing conflicts of interest that may arise involving the Grantee's management employees and the members of its board of directors or other governing body in accordance with N.C.G.S.143-6.2(b1)(2005). The policy addresses situations in which any of these individuals may directly or indirectly benefit, except as the Grantee's employees or members of its board or other governing body, from the Grantee's disbursing of State funds and includes actions to be taken by the Grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

**8. Statement of No Overdue Tax Debts:** Grantee's sworn written statement pursuant to N.C.G.S. 143-6.2(b2), stating that the Grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level, is attached. Grantee acknowledges a false statement in this regard is a criminal offense punishable as provided in G.S. 143-34(b).

**9. Reversion of Unexpended Funds:** Any unexpended grant funds shall revert to the Agency upon termination of this Contract.

**10. Reporting Requirements:** This Contract is subject to the reporting requirements described on the Notice

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)



of Certain Reporting and Audit Requirements which is attached.

**11. Payment Provisions:** The Grantee will be reimbursed for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. Allowable expenditures are defined as those associated with work performed to meet the milestones that have been addressed during the specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in the Grantee's response to Agency's call for grant proposals.

**12. Invoices:** The Grantee shall submit invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within 45 days after the end of the contract period. Amended or corrected invoices must be received by the Agency's Office of the Controller within six (6) months after the end of the contract period. The Agency will not pay any invoice received more than six (6) months after the end of the effective period.

**13. Contract Administrators:** Each Party submits notices, questions and correspondence to the other Party's Contract Administrator. The name, address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely notice to the other Party.

**Any changes in the scope of this Contract which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.**

Agency Contract Administrator:	
Talivia Brodie NC Division of Parks and Recreation test MSC 1615 Raleigh, NC 27599-1615 (919) 707-9320 talivia.brodie@ncparks.gov	
Grantee Contract Administrator	Grantee Principal Investigator or Key Personnel
Shane Prisby BURKE COUNTY PO Box 219 MORGANTON, NC 28680-0219 +1 (828) 764-9034 Ext: null shane.prisby@burkenc.org	Shane Prisby BURKE COUNTY PO Box 219 MORGANTON, NC 28680-0219 +1 (828) 764-9034 Ext: null shane.prisby@burkenc.org

**14. Grantee Principal Investigator or Key Personnel:** The Grantee shall not substitute the Principal Investigator or Key Personnel assigned to the performance of this Contract without timely notice to the Agency Contract Administrator.

**15. Supplantation of Expenditure of Public Funds:** The Grantee assures that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, State and local public funds that the Grantee otherwise expends for the Project services and related programs FHWA-RTP through NC DOT funds. Funds received under this Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

**16. Disbursements:** As a condition of this Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:

- a. Implement adequate internal controls over disbursements;
- b. Pre-audit all vouchers presented for payment to determine:
  - i. Validity and accuracy of payment
  - ii. Payment due date
  - iii. Adequacy of documentation supporting payment
  - iv. Legality of disbursement
- c. Assure adequate control of signature stamps/plates;
- d. Assure adequate control of negotiable instruments; and
- e. Implement procedures to ensure that account balance is solvent and reconcile the account monthly.

**17. Outsourcing:** The Grantee certifies that it has identified to the Agency all jobs related to this Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.

**18. E-Verify:** As required by G.S. §143-48.5 (Session Law 2013-418), the Grantee certifies that it, and each of its subcontractors for any contract awarded as a result of this solicitation, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal EVerify system.

**19. Assurances for Non-Federally Funded Contracts:** The GRANTEE certifies that with regard to:

- 1. Debarment And Suspension -To the best of its knowledge and belief that it and its principals:
  - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
  - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Lobbying -To the best of his or her knowledge and belief, that:

- (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. Drug-Free Work Place Requirements - It will comply by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about-
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;



- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
  - (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
  - (e) Notifying the Agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
  - (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
    - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.
4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
6. Will comply with all applicable requirements of all other federal, state and local government laws, executive orders, regulations and policies governing this program.

**20. Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Contract.

*N.C.G.S. §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you (Grantee) attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.*

IN WITNESS WHEREOF, the Grantee and the Agency execute this agreement in two (2) originals, one (1) of which is retained by the Grantee and one (1) of which is retained by the Agency, the day and year first above written.

GRANTEE
Title
Printed Name
Grantee's Signature

NORTH CAROLINA DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
Title
Printed Name
Authorized Agent's Signature

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

## NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS

1. **PERFORMANCE AND DEFAULT:** If, through any cause, Grantee shall fail to fulfill in timely and proper manner the obligations under this contract, the Agency shall have the right to terminate this contract by giving written notice to the Grantee and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Grantee shall, at the option of the Agency, become its property, and the Grantee shall be entitled to receive just and equitable compensation for any acceptable work completed on such materials. Notwithstanding, Grantee shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this contract, and the Agency may withhold any payment due the Grantee for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined. In addition, in the event of default by the Contractor under this contract, or upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the Agency may immediately cease doing business with the Contractor, immediately terminate this contract for cause, and may act to debar the Contractor from doing future business with the Agency.
2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the Grantee to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The Agency reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the Grantee are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this contract.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
  - a. G.S. §143-59.1 bars the Secretary of Administration from entering into Contracts with Grantees if the Grantee or its affiliates meet one of the conditions of G. S. §105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. §105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the Agency that solicit sales or transact business on behalf of the Grantee and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the Grantee certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
  - b. All agencies participating in this Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Grantee will be executed and returned by the using agency.
  - c. Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
5. **SITUS:** The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.
7. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Grantee under the Contract. Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, Master Card, etc.) from other customers, and it shall be accepted by the Vendor for payment under the same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.
8. **AFFIRMATIVE ACTION:** The Grantee will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
9. **INTELLECTUAL PROPERTY INDEMNITY:** Grantee shall hold and save the Agency, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.



- 10. ADVERTISING:** Grantee agrees not to use the existence of this Contract or the name of the State of North Carolina as part of any commercial advertising or marketing of products or services. A Grantee may inquire whether the Agency is willing to act as a reference by providing factual information directly to other prospective customers.
- 11. ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. §143-49(9) and §147-64.7.
- 12. ASSIGNMENT:** No assignment of the Grantee's obligations nor the Grantee's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Grantee, the Agency may:

- a. Forward the Grantee's payment check directly to any person or entity designated by the Grantee, and
- b. Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check.

In no event shall such approval and action obligate the Agency to anyone other than the Grantee and the Grantee shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, the Agency may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Grantee's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

### 13. INSURANCE:

**COVERAGE** - During the term of the Contract, the Grantee at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Grantee shall provide and maintain the following coverage and limits:

- a. **Worker's Compensation** - The Grantee shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Grantee's employees who are engaged in any work under the Contract. If any work is sub-contracted, the Grantee shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.
- b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

**REQUIREMENTS** - Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Contract.

- 14. GENERAL INDEMNITY:** The Grantee shall hold and save the Agency, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Grantee in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Grantee provided that the Grantee is notified in writing within 30 days that the Agency has knowledge of such claims. The Grantee represents and warrants that it shall make no claim of any kind or nature against the Agency's agents who are involved in the delivery or processing of Grantee goods to the Agency. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.

15. **INDEPENDENT CONTRACTOR:** Grantee shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Grantee represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such employees shall not be employees of, or have any individual contractual relationship with the Agency.
16. **KEY PERSONNEL:** Grantee shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's assigned Contract Lead. The individuals designated as key personnel for purposes of this contract are those specified in the RFP or Grantee's proposal.
17. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Grantee or its employees shall not be subcontracted without prior written approval of the Agency's assigned Contract Administrator.
18. **TERMINATION FOR CONVENIENCE:** The Agency may terminate this contract at any time by 30 days' notice in writing from the Agency to the Grantee. In that event, all finished or unfinished deliverable items prepared by the Grantee under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided in this section, the Agency shall pay for services satisfactorily completed by the Grantee, less payment or compensation previously made.
19. **CONFIDENTIALITY:** Any Agency information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Grantee under this contract shall be kept as confidential, used only for the purpose(s) required to perform this contract and not divulged or made available to any individual or organization without the prior written approval of the Agency.
20. **CARE OF PROPERTY:** The Grantee agrees that it shall be responsible for the proper custody and care of any property furnished it by the Agency for use in connection with the performance of this contract or purchased by or for the Agency for this contract, and Grantee will reimburse the Agency for loss or damage of such property while in Grantee's custody.
21. **PROPERTY RIGHTS:** All deliverable items produced for or as a result of this contract shall be an become the property of the Agency, and Grantee hereby assigns all ownership rights in such deliverables, including all intellectual property rights, to the Agency; provided, however, that as to any preexisting works imbedded in such deliverables, Grantee hereby grants the Agency a fully-paid, perpetual license to copy, distribute and adapt the preexisting works.
22. **COMPLIANCE WITH LAWS:** Grantee shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
23. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Grantee. This Contract shall not be amended orally or by performance.
24. **WAIVER:** The failure to enforce or the waiver by the Agency of any right or of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
25. **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

## Notice of Certain Reporting and Audit Requirements

Grantee shall comply with the all rules and reporting requirements established by statute or administrative rules. For convenience, the requirements of 09 NCAC Subchapter 03M.0205 are set forth in this Attachment.

### Reporting Thresholds.

There are three reporting thresholds established for grantees and subgrantees receiving State funds. The reporting thresholds are:

- (1) Less than \$25,000 -- A grantee that receives, uses, or expends State funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by 09 NCAC Subchapter 03M including:
  - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted; and
  - (B) An accounting of the State funds received, used, or expended. All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.
  
- (2) \$25,000 up to \$500,000 - A grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) and up to five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
  - (B) An accounting of the State funds received, used, or expended; and
  - (C) A description of activities and accomplishments undertaken by the grantee with the State funds. All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.
  
- (3) Greater than \$500,000 -- A grantee that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
  - (B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and
  - (C) A description of activities and accomplishments undertaken by the grantee with the State funds. All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine months after the end of the grantee's fiscal year in which the State funds were received.

### Other Provisions:

1. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M.0205 are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Office of Budget and Management(OMB) Circular A-87. The cost of any audit not conducted in accordance with this Subchapter is unallowable and shall not be charged to State or Federal grants.
2. The audit requirements in 09 NCAC Subchapter 03M do not replace a request for submission of audit reports by grant or agencies in connection with requests for direct appropriation of state aid by the General Assembly.
3. Notwithstanding the provisions of 09 NCAC Subchapter 03M, a grantee may satisfy the reporting requirements of Part(a)(3)(B) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.



**FEDERAL CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**  
(Requirement of Governmental Agencies and Non-Profit Organizations)

1. By execution of this Agreement the Contractor certifies that it will provide a drug-free workplace by:
  - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - B. Establishing a drug-free awareness program to inform employees about
    - (1)The dangers of drug abuse in the workplace;
    - (2)The Contractor's policy of maintaining a drug-free workplace;
    - (3)Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4)The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - C. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (A);
  - D. Notify the employee in the statement required by paragraph (A) that, as a condition of employment under the agreement, the employee will:
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer of any criminal drug statue conviction for a violation occurring in the workplace no later than five days after such conviction;
  - E. Notify the Department within ten days after receiving notice under subparagraph (D) (2), with respect to any employee who is so convicted:
    - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local law enforcement, or other appropriate agency; and

Making a good effort to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), and (E).

False certification or violation of the certification may be grounds for suspension of payments, suspension or termination of grants, or government-wide Federal suspension or debarment, 45 C.F.R. 82.510.

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

FEDERAL CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form ILL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

**FEDERAL CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY  
EXCLUSION-LOWER TIER COVERED TRANSACTIONS  
(Requirement of Governmental Agencies and Non-Profit Organizations)  
Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant will provide immediate written notice to the person to which the proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used *in* this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to required establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.



5.5.b

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

**RECREATIONAL TRAILS PROGRAM  
FEDERAL ASSURANCES - COMPLIANCE FORM**  
(Requirement of Governmental Agencies and Non-Profit Organizations)

As the duly authorized representative of the applicant, I certify that the applicant:

Name of Applicant: BURKE COUNTY

1. Will comply with the provisions of Title H, Americans with Disabilities Act of 1991.
2. Will comply with Section 1302 (e) (2) (C) of the RTP that prohibits the use of grant funds to accommodate motorized use on trails that have been predominately used by non-motorized trail users prior to May 1, 1991.
3. Any Federal agency agrees that the construction of new trails crossing Federal lands in compliance with all applicable laws, including the National Environmental Policy Act, the Forest and Rangeland Renewable Resources Planning Act and the Federal Land Policy and Management Act.
4. Any Federal agency agrees that construction of any recreational trail on National Park Service or National Forest Service lands for motorized uses will be on lands proposed for such uses and will not be on lands in designated wilderness areas and that such construction is otherwise consistent with the management direction is such approved land and resources management plan.
5. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
6. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
7. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
8. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
9. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. " 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ' 794) which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination act of 1975, as amended (42 U.S.C. " 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) " 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. ' 3601 et seq.), as amended relating to nondiscrimination in the sale, rental or financing of housing; (i) any other non-discrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination statute(s) which may apply to the application.
10. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and Federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
11. Will comply with the provisions of the Hatch Act (5 U.S.C. " 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in Whole or in part with Federal funds.
12. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

- 13. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EI 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with (O 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. " 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. ' 7401 et seq.) (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
- 14. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. " 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- 15. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), E0 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
- 16. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1986.
- 17. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.
- 18. "Buy America" provisions apply to steel and iron used in a "Federal-aid highway construction project." If a trail project uses steel for bridges or trail signs and the costs for these items exceeds \$2,500.00, the provisions of 23 CFR 635.410(b)(4) apply.
- 19. The "Disadvantaged Business Enterprise" (DBE) requirement applies to this RTP grant. The objective of the DBE Program is to provide disadvantaged business enterprises with opportunities to compete for government contracts. In keeping with this requirement, we ask that each RIP grant recipient, where feasible and practical, encourage DBE listed contractors and suppliers to bid for trail work for which you were granted RTP funds. For information about North Carolina Department of Transportation's approved DBE contractors, visit

<https://www.ebs.nc.gov/VendorDirectory/default.html>

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)



**NORTH CAROLINA'S RECREATIONAL TRAILS PROGRAM  
APPLICATION SIGNATURE PAGE**

"On behalf of the applicant, I hereby certify the information contained in the Recreational Trails Program grant application is true and correct. I understand this application will be rated on the basis of the information submitted and the submission of incorrect data or an incomplete application can result in this application being eliminated from consideration for funding."

"I hereby certify the applicant will comply with all applicable local, state and Federal laws and regulations."

"I hereby certify the availability of a minimum of 25% of the requested Recreational Trails Program grant amount as noted in this application."

Date
Agency/Organization
BURKE COUNTY
Title
Signature
Attested By

**Note:** Non-profit organizations applying for RTP funding for a project located on lands managed by a governmental agency must have the approval of the chief executive officer of the affected land managing agency. This approval is to be represented by the signature of the chief executive officer below.

Approved on
Agency/Organization
Title
By

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

FEDERAL RECREATIONAL TRAILS PROGRAM
INSURANCE REQUIREMENT NOTIFICATION FORM
(Requirement of Governmental Agencies and Non-Profit Organizations)

A grantee must provide INSURANCE during the term of a State Grant Contract. As a minimum, the grantee shall provide and maintain the following coverage and limits:

- a. Worker's Compensation - The Grantee shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Grantee's employees who are engaged in any work under the contract.
b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit.
c. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina.

As the approved contact for the below listed organization, I sign that I have read and am now aware of the Insurance Requirement that will be noted in the General Terms and Conditions of our pending State Grant Contract.

Form with fields for Date, Agency/Organization (BURKE COUNTY), Title, and Signature.

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)



## Recreational Trails Program

Number: 20.219

Agency: Department of Transportation Office: Federal Highway Administration (FHWA)

### PROGRAM INFORMATION

#### Authorization (040):

Fixing America's Surface Transportation (FAST) Act., Public Law 114-94, 23 U.S.C 104, 133, 206.

#### Objectives (050):

To provide funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. The funds represent a portion of the motor fuel excise tax collected from nonhighway recreational fuel use.

#### Types of Assistance (060):

Formula Grants; Formula Grants (Apportionments)

#### Uses and Use Restrictions (070):

Funds from this program may be used for: (1) Maintenance and restoration of existing trails; (2) development and rehabilitation of trailside and trailhead facilities and trail linkages; (3) purchase and lease of trail construction and maintenance equipment; (4) construction of new trails (with restrictions for new trails on Federal lands); (5) acquisition of easements or property for trails or trail corridors; (6) assessment of trail conditions for accessibility and maintenance; (7) development and dissemination of publications and operation of educational programs to promote safety and environmental protection (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), (limited to 5 percent of a State's funds); and (8) State administrative costs related to this program (limited to 7 percent of a State's funds). Funds may not be used for: property condemnation; constructing new trails for motorized use on National Forest or Bureau of Land Management lands unless the project is consistent with resource management plans; or facilitating motorized access on otherwise nonmotorized trails. The USDOT encourages States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under this program.

Note: States must return 1 percent of the funds to the FHWA for administrative, research, technical assistance, and training expenses for the program. The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks. Funds from this program may be used for: (1) Maintenance and restoration of existing trails; (2) development and rehabilitation of trailside and trailhead facilities and trail linkages; (3) purchase and lease of trail construction and maintenance equipment; (4) construction of new trails (with restrictions for new trails on Federal lands); (5) acquisition of easements or property for trails or trail corridors; (6) assessment of trail conditions for accessibility and maintenance; (7) development and dissemination of publications and operation of educational programs to promote safety and environmental protection (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), (limited to 5 percent of a State's funds); and (8) State administrative costs related to this program (limited to 7 percent of a State's funds). States must use 40 percent of their funds for diverse recreational trail use, 30 percent for motorized use, and 30 percent for non-motorized use (Connecticut, Delaware, District of Columbia, and Rhode Island have a small State exception).

Note: States must return 1 percent of the funds to the FHWA for administrative, research, technical assistance, and training expenses for the program. The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

#### Eligibility Requirements (080)

##### Applicant Eligibility (081):

(The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations using its administrative funds.)

For funds available to the States: the Governor of each State must designate the State agency or agencies responsible for administering this program. The State must have a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less than once per fiscal year. If the State Recreational Trail Advisory Committee does not meet in a fiscal year, or does not have required representation, the State becomes ineligible for an apportionment. The State agency may accept project proposals from private organizations, or from municipal, county, State, or Federal government entities, and other government entities. The projects must satisfy one or more of the permissible uses. States may provide sub-grants to Federal, State, and local government entities and to private entities, at the discretion of the State.

##### Beneficiary Eligibility (082):

(The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with



other government agencies, institutions of higher learning, or nonprofit organizations using its administrative funds. The State agency designated by the Governor. A State may opt out of the Recreational Trails Program if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

#### **Credentials/Documentation (083):**

Allowable costs will be determined in accordance with applicable cost principles listed in 2 CFR Part 200 for the kind of organization receiving the grant or sub-grant. 2 CFR 200, Subpart E - Cost Principles applies to this program.

### **Application and Award Process (090)**

#### **Preapplication Coordination (091):**

Most Recreational Trails Program (RTP) projects qualify as Categorical Exclusions under the National Environmental Policy Act (NEPA). Some projects may require Environmental Assessments. Projects that may have a significant environmental impact may require Environmental Impact Statements. An environmental impact statement is required for this program. An environmental impact assessment is required for this program. This program is eligible for coverage under E.O. 12372, "Intergovernmental Review of Federal Programs." An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if the State has selected the program for review.

#### **Application Procedures (092):**

This program is excluded from coverage under 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. For funds available to the States: The States must submit project proposals to the FHWA division office located in each State for approval. The State may submit individual projects or consolidate similar projects for the purposes of program approval. FHWA approval constitutes a commitment to pay the Federal share of the project's cost. The State's projects also must be included in State transportation improvement programs and applicable metropolitan transportation improvement programs.

For FHWA's administrative, research, technical assistance, and training expenses, FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks. Contracts are announced through [www.fbo.gov](http://www.fbo.gov). Cooperative agreements are announced through [www.grants.gov](http://www.grants.gov).

#### **Award Procedure (093):**

For funds available to the States: The State agency or agencies designated by the Governors decide which projects will be developed within funding levels, but the FHWA division office located in each State makes the final decision on the eligibility of specific projects for funding.

#### **Deadlines (094):**

Contact the headquarters or regional office, as appropriate, for application deadlines.

#### **Range of Approval/Disapproval Time (095):**

From 5 days to 5 months. In some States, requirements for projects to be listed in statewide or metropolitan transportation improvement programs may add up to a year of delay.

#### **Appeals (096):**

Not Applicable.

#### **Renewals (097):**

Not Applicable.

### **Assistance Consideration (100)**

#### **Formula and Matching Requirements (101):**

Statutory Formula: Title 23 U.S.C., Part 133(h), 206, and former 213(f) and (g), Public Law 114-94. 133(h), 206, and former 213(f) and (g). See [http://www.fhwa.dot.gov/environment/recreational\\_trails/legislation/](http://www.fhwa.dot.gov/environment/recreational_trails/legislation/).

Matching Requirements: Percent: 80%. The Federal share is subject to a sliding scale under 23 U.S.C. 120(b). Funds from any other Federal program may be used for the non-Federal match if the project also is eligible under the other program.

Recreational Trails Program funds may be used to match other Federal funds if the project also is eligible under the other program. States also may allow a programmatic match: if some project sponsors in a State provide more match funds than required, other sponsors in the State may provide less. Some in-kind materials and services may be credited toward the project match. States may allow some pre-approval planning and environmental assessment costs toward the project match. See [http://www.fhwa.dot.gov/environment/recreational\\_trails/guidance/matchingfunds.cfm](http://www.fhwa.dot.gov/environment/recreational_trails/guidance/matchingfunds.cfm). This program does not have MOE requirements.

**Length and Time Phasing of Assistance (102):**

Funds generally become available at the beginning of the fiscal year for which they are authorized, and must be obligated within 3 years after the close of that fiscal year. See the following for information on how assistance is awarded/released: The method of money release varies case by case.

**Post Assistance Requirements (110)****Reports (111):**

No reports are required.

**Audits (112):**

In accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, non-Federal entities that expend financial assistance of \$750,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Non-Federal entities that expend less than \$750,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503.

**Records (113):**

Project records and documents must be retained by the State for 3 years following the final submission for Federal payment in accordance with 2 CFR 200.

**Financial Information (120)****Account Identification (121):**

69-8083-0-7-401.

**Obligations (122):**

(Formula Grants (Apportionments)) FY 15 \$80,741,889; FY 16 est \$82,365,802; and FY 17 est \$82,365,802 - The Recreational Trails Program has continued as a set-aside of funds under the Transportation Alternatives Program (20.205) at up to \$84,160,000 per year. A State may choose to opt out of the program in a fiscal year: Connecticut opted out for FY 2016. Remaining unobligated balances from prior years may be available. Note: States must return 1 percent of the funds to the FHWA for administrative, research, technical assistance, and training expenses for the program. The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

**Range and Average of Financial Assistance (123):**

Apportionments to the States are based on statutory formula. All 50 States and the District of Columbia are eligible to receive apportionments. For FY 2015: \$83,318,400 was potentially available; \$80,741,889 was apportioned (Florida opted out for FY 2015). Awards ranged from \$816,847 to \$5,698,627; the average was \$1,614,838.

**Program Accomplishments (130):**

Fiscal Year 2015: States obligated \$72 million for approximately 1,100 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2016: States will obligate about \$75-\$85 million for about 1,200 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2017: No Current Data Available

**Regulations, Guidelines, and Literature (140):**

23 CFR, Highways and 49 CFR, Transportation. There are no regulations specifically for the Recreational Trails Program. Program guidance was completed on April 1, 1999; and is posted at <http://www.fhwa.dot.gov/environment/rectrails/guidance.htm> along with program updates. Program guidance under MAP-21 is posted at <http://www.fhwa.dot.gov/map21/guidance/guidetap.cfm> with Questions and Answers at <http://www.fhwa.dot.gov/map21/qandas/qatap.cfm>. New guidance under the FAST Act will be posted at [http://www.fhwa.dot.gov/environment/transportation\\_alternatives/](http://www.fhwa.dot.gov/environment/transportation_alternatives/).

**Information Contacts (150)****Regional or Local Office (151):**

See Regional Agency Offices. State-level offices of the Federal Highway Administration (as listed in Appendix IV of the Catalog) or the State agency designated by the Governor to administer this program.

**Headquarters Office (152):**

Christopher B. Douwes 1200 New Jersey Ave S.E., Washington, District of Columbia 20590 Email: christopher.douwes@dot.gov  
Phone: (202) 366-5013 Fax: (202) 366-3409

**Website Address (153):**

[http://www.fhwa.dot.gov/environment/recreational\\_trails/](http://www.fhwa.dot.gov/environment/recreational_trails/)

**Related Programs (160):**

20.205 Highway Planning and Construction

**Examples of Funded Projects (170):**

Fiscal Year 2015: States obligated \$72 million for about 1,100 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2016: States will obligate approximately \$75-\$85 million for about 1,200 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2017: Similar projects will be completed as noted in FY15, and 16.

**Criteria for Selecting Proposals (180):**

Each State (and the District of Columbia) solicits and selects projects for funding. To be eligible, projects must be selected on the basis of State priorities within the limit of the funds apportioned to each State.



Place Holder for **Secretary Award Letter**

Please reference the Secretary Award Letter under Attachments in the Grant Management System (GMS).

*The remainder of this page is intentionally blank*

Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)

Place Holder for **Application Form**

Please reference the Application form in the Grant Management System (GMS).

*The remainder of this page is intentionally blank*

## Deliverables from Application

DIL	Item Type	Description	Accom. By	Unit(s)	Units of Meas.	Rate	RTP Funds	Match Funds	Total Amount
1	P001 New Trail/Greenway - Unpaved	New 5' Natural Surface Trail	Contracted	100	linear feet	4	\$400.00		\$400.00
2	P012 New Trail Facility	New 20' Bridge	Contracted	20	linear feet	1,150	\$16,000.00	\$7,000.00	\$23,000.00
3	P012 New Trail Facility	New 6' Clear Width Boardwalk	Contracted	120	linear feet	475	\$47,000.00	\$10,000.00	\$57,000.00
4	P012 New Trail Facility	New NC DOT Access	Contracted	1		4,600	\$4,600.00		\$4,600.00
Sub Total(s)							\$68,000.00	\$17,000.00	\$85,000.00

**Attachment: Contract Boardwalk (3020 : Accept Recreational Trails Program 2020 Grant Contract - OVNHT Boardwalk)**



**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

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**Subject Title: Comm. Dev. - Accept Recreational Trails Program 2020 Grant Contract - Northwest Gap 2**

**Presented By: Shane Prisby**

**Summary of Information:** With the Board of Commissioner's approval, the Burke County Community Development Department has applied to and has received a \$89,400 Recreation Trails Program grant from North Carolina Department of Natural and Cultural Resources (NCDNCR) to complete the trail and boardwalk construction on the Fonta Flora State Trail at Linville Access across NC 126 to the existing MST Connector trail. This grant requires a \$22,350 match. In order to receive the money, the Board of Commissioners must approve the grant agreement.

At the time of application, there was concern that we would not be able to complete the project with the initial grant as the amount of necessary boardwalk was doubled to comply with NCDOT requirements. The resulting low bid should allow us to complete the project in its entirety.

Because the original grant request has been met, Community Development is working with NC Parks to amend the grant for a project on the other side of Lake James. The new project will be approximately 2 miles of new trail on the Fonta Flora/Overmountain Victory National Historic Trails through 1780 and the Enclave subdivisions. This new project can be matched with Duke Energy CRA funding, and no match will be necessary from Burke County.

**Budgetary Effect:** If State Parks approves the requested changes to the grant, then there will be no effect to the County budget. The grant would be matched with Duke Energy CRA funding.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion:** To approve the Recreational Trails Program grant contract between the North Carolina Department of Natural and Cultural Resources and Burke County. Further, authorize the County Manager to execute the agreement on behalf of the Board, subject to review and/or revision by the County Attorney.

This Contract is hereby made and entered into this Wednesday, April 1, 2020, by and between the **NORTH CAROLINA DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**, (the "Agency") and the **BURKE COUNTY**, (the "Grantee") (referred to collectively as the "Parties") for the **Fonta Flora State Trail - Northwest Gap 2 Project**, as described in the Grantee's Response to Agency's Call for Grant Proposals (the "Project").

**1. Contract Documents:** This Contract consists of the following documents, all of which are identified by name as:

**Grant Contract No. RTP2020-8169**

- (1) Grant Contract
- (2) Secretary Award Letter
- (3) General Terms and Conditions
- (4) Notice of Certain Reporting and Audit Requirements
- (5) Federal Certification Regarding Drug-Free Workplace
- (6) Federal Certification Regarding Lobbying
- (7) Federal Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions
- (8) Federal Assurances - Compliance Form
- (9) Application Signature Page
- (10) Insurance Requirement Notification Form
- (11) Grant Administrative and Programmatic Conditions
- (12) Grantee's Response to Agency's Call for Grant Proposals (grantee's application), including line item budget and budget narrative and *if applicable*, indirect cost documentation

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements. The Parties may enter into Contract amendments in accordance with the General Terms and Conditions as described herein.

**2. Precedence Among Contract Documents:** In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.

**3. Contract Period:** This Contract shall be effective for a period of three (3) years from the date of the Secretary Award letter, 20 day of February, 2020, and expires on 19 day of February, 2023.

**4. Contract Procedures:** Once this Contract has been executed and the Secretary Award letter issued, the Grantee shall undertake and complete the Project in accordance with the sequence of steps outlined below, which shall assure expeditious completion considering the purposes of this Contract:

**a. Complete Environmental Review and obtain & abide by any required permits;**

**i. Grantee will obtain all required permits to complete the Project prior to beginning construction. Grantee must provide documentation of the Environmental Review and all required permits to initiate the next step.**

**b. Notify the Grants Manager when the Grantee is ready to begin the Project once they have received a notice to proceed;**

**i. The Grantee may begin to incur expenses for the Project only once they have completed this notification.**

**c. Request reimbursement for eligible expenses at a minimum of every six (6) months;**

d. Notify the Regional Trails Specialist and Grants Manager when the Project is complete to schedule a final inspection;

i. Grantee must complete the Project within the term of this Contract.

e. Request final reimbursement prior to the termination or expiration of this Contract;

f. Submit a letter to unencumber any remaining funds that were not used for the contracted deliverables.

5. **Grantee's Duties:** The Grantee provides the Project as described in the Grantee's Response to Agency's Call for Grant Proposals and in accordance with the approved budget therein.

6. **Agency's Duties:** The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents.

The total amount paid by the Agency to the Grantee under this Contract shall not exceed	
eighty-nine thousand four hundred Dollars	\$89,400.00

This amount consists of:

Type of Funds	Funding Source	CFDA No.
Other Receipts	FHWA-RTP THROUGH DOT	20.219

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$89,400.00	4602	536425	2803

a. The Grantee's matching requirement is \$22,350.00 , which shall consist of:

In-Kind		\$22,350.00
Cash		\$0.00

b. The Grantee has committed to an additional \$0.00 to complete the project as described in the Grantee's response to Agency's call for grant proposals.

In-Kind		\$0.00
Cash		\$0.00

The contributions from the Grantee shall be sourced from non-federal funds.

The total contract amount is **\$111,750.00** .

7. **Conflict of Interest Policy:** Grantee implements a Conflict of Interest policy that meets or exceeds the requirements of N.C.G.S. §143-6.2 (b1). Grantee has filed with the Agency a copy, which is attached, of Grantee's policy addressing conflicts of interest that may arise involving the Grantee's management employees and the members of its board of directors or other governing body in accordance with N.C.G.S.143-6.2(b1)(2005). The policy addresses situations in which any of these individuals may directly or indirectly benefit, except as the Grantee's employees or members of its board or other governing body, from the Grantee's disbursing of State funds and includes actions to be taken by the Grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

8. **Statement of No Overdue Tax Debts:** Grantee's sworn written statement pursuant to N.C.G.S. 143-6.2(b2), stating that the Grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level, is attached. Grantee acknowledges a false statement in this regard is a criminal offense punishable as provided in G.S. 143-34(b).

9. **Reversion of Unexpended Funds:** Any unexpended grant funds shall revert to the Agency upon termination of this Contract.

10. **Reporting Requirements:** This Contract is subject to the reporting requirements described on the Notice

of Certain Reporting and Audit Requirements which is attached.

**11. Payment Provisions:** The Grantee will be reimbursed for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. Allowable expenditures are defined as those associated with work performed to meet the milestones that have been addressed during the specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in the Grantee's response to Agency's call for grant proposals.

**12. Invoices:** The Grantee shall submit invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within 45 days after the end of the contract period. Amended or corrected invoices must be received by the Agency's Office of the Controller within six (6) months after the end of the contract period. The Agency will not pay any invoice received more than six (6) months after the end of the effective period.

**13. Contract Administrators:** Each Party submits notices, questions and correspondence to the other Party's Contract Administrator. The name, address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely notice to the other Party.

**Any changes in the scope of this Contract which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.**

Agency Contract Administrator:	
Talivia Brodie NC Division of Parks and Recreation test MSC 1615 Raleigh, NC 27599-1615 (919) 707-9320 talivia.brodie@ncparks.gov	
Grantee Contract Administrator	Grantee Principal Investigator or Key Personnel
Shane Prisby BURKE COUNTY PO Box 219 (110 N. Green St) Morganton, NC 28680 +1 (828) 764-9034 Ext: null shane.prisby@burkenc.org	Shane Prisby BURKE COUNTY PO Box 219 (110 N. Green St) Morganton, NC 28680 +1 (828) 764-9034 Ext: null shane.prisby@burkenc.org

**14. Grantee Principal Investigator or Key Personnel:** The Grantee shall not substitute the Principal Investigator or Key Personnel assigned to the performance of this Contract without timely notice to the Agency Contract Administrator.

**15. Supplantation of Expenditure of Public Funds:** The Grantee assures that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, State and local public funds that the Grantee otherwise expends for the Project services and related programs FHWA-RTP through NC DOT funds. Funds received under this Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest



**16. Disbursements:** As a condition of this Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:

- a. Implement adequate internal controls over disbursements;
- b. Pre-audit all vouchers presented for payment to determine:
  - i. Validity and accuracy of payment
  - ii. Payment due date
  - iii. Adequacy of documentation supporting payment
  - iv. Legality of disbursement
- c. Assure adequate control of signature stamps/plates;
- d. Assure adequate control of negotiable instruments; and
- e. Implement procedures to ensure that account balance is solvent and reconcile the account monthly.

**17. Outsourcing:** The Grantee certifies that it has identified to the Agency all jobs related to this Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.

**18. E-Verify:** As required by G.S. §143-48.5 (Session Law 2013-418), the Grantee certifies that it, and each of its subcontractors for any contract awarded as a result of this solicitation, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal EVerify system.

**19. Assurances for Non-Federally Funded Contracts:** The GRANTEE certifies that with regard to:

- 1. Debarment And Suspension -To the best of its knowledge and belief that it and its principals:
  - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
  - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Lobbying -To the best of his or her knowledge and belief, that:

- (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. Drug-Free Work Place Requirements - It will comply by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about-
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
  - (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
  - (e) Notifying the Agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
  - (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
    - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.
4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
6. Will comply with all applicable requirements of all other federal, state and local government laws, executive orders, regulations and policies governing this program.

**20. Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Contract.

*N.C.G.S. §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you (Grantee) attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.*

IN WITNESS WHEREOF, the Grantee and the Agency execute this agreement in two (2) originals, one (1) of which is retained by the Grantee and one (1) of which is retained by the Agency, the day and year first above written.

GRANTEE
Title
Printed Name
Grantee's Signature

NORTH CAROLINA DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
Title
Printed Name
Authorized Agent's Signature

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest



## NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS

1. **PERFORMANCE AND DEFAULT:** If, through any cause, Grantee shall fail to fulfill in timely and proper manner the obligations under this contract, the Agency shall have the right to terminate this contract by giving written notice to the Grantee and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Grantee shall, at the option of the Agency, become its property, and the Grantee shall be titled to receive just and equitable compensation for any acceptable work completed on such materials. Notwithstanding, Grantee shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this contract, and the Agency may withhold any payment due the Grantee for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined. In addition, in the event of default by the Contractor under this contract, or upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the Agency may immediately cease doing business with the Contractor, immediately terminate this contract for cause, and may act to debar the Contractor from doing future business with the Agency.
2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be there responsibility of the Grantee to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The Agency reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the Grantee are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this contract.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
  - a. G.S. §143-59.1 bars the Secretary of Administration from entering into Contracts with Grantees if the Grantee or its affiliates meet one of the conditions of G. S. §105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. §105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the Agency that solicit sales or transact business on behalf of the Grantee and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the Grantee certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
  - b. All agencies participating in this Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Grantee will be executed and returned by the using agency.
  - c. Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
5. **SITUS:** The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to is conflict of laws rules.
7. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Grantee under the Contract. Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, Master Card, etc.) from other customers, and it shall be accepted by the Vendor for payment under the same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.
8. **AFFIRMATIVE ACTION:** The Grantee will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
9. **INTELLECTUAL PROPERTY INDEMNITY:** Grantee shall hold and save the Agency, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.

- 10. ADVERTISING:** Grantee agrees not to use the existence of this Contract or the name of the State of North Carolina as part of any commercial advertising or marketing of products or services. A Grantee may inquire whether the Agency is willing to act as a reference by providing factual information directly to other prospective customers.
- 11. ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. §143-49(9) and §147-64.7.
- 12. ASSIGNMENT:** No assignment of the Grantee's obligations nor the Grantee's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Grantee, the Agency may:

- a. Forward the Grantee's payment check directly to any person or entity designated by the Grantee, and
- b. Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check.

In no event shall such approval and action obligate the Agency to anyone other than the Grantee and the Grantee shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, the Agency may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Grantee's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

### 13. INSURANCE:

**COVERAGE** - During the term of the Contract, the Grantee at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Grantee shall provide and maintain the following coverage and limits:

- a. **Worker's Compensation** - The Grantee shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Grantee's employees who are engaged in any work under the Contract. If any work is sub-contracted, the Grantee shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.
- b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

**REQUIREMENTS** - Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Contract.

- 14. GENERAL INDEMNITY:** The Grantee shall hold and save the Agency, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Grantee in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Grantee provided that the Grantee is notified in writing within 30 days that the Agency has knowledge of such claims. The Grantee represents and warrants that it shall make no claim of any kind or nature against the Agency's agents who are involved in the delivery or processing of Grantee goods to the Agency. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.

15. **INDEPENDENT CONTRACTOR:** Grantee shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Grantee represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such employees shall not be employees of, or have any individual contractual relationship with the Agency.
16. **KEY PERSONNEL:** Grantee shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's assigned Contract Lead. The individuals designated as key personnel for purposes of this contract are those specified in the RFP or Grantee's proposal.
17. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Grantee or its employees shall not be subcontracted without prior written approval of the Agency's assigned Contract Administrator.
18. **TERMINATION FOR CONVENIENCE:** The Agency may terminate this contract at any time by 30 days' notice in writing from the Agency to the Grantee. In that event, all finished or unfinished deliverable items prepared by the Grantee under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided in this section, the Agency shall pay for services satisfactorily completed by the Grantee, less payment or compensation previously made.
19. **CONFIDENTIALITY:** Any Agency information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Grantee under this contract shall be kept as confidential, used only for the purpose(s) required to perform this contract and not divulged or made available to any individual or organization without the prior written approval of the Agency.
20. **CARE OF PROPERTY:** The Grantee agrees that it shall be responsible for the proper custody and care of any property furnished it by the Agency for use in connection with the performance of this contract or purchased by or for the Agency for this contract, and Grantee will reimburse the Agency for loss or damage of such property while in Grantee's custody.
21. **PROPERTY RIGHTS:** All deliverable items produced for or as a result of this contract shall be an become the property of the Agency, and Grantee hereby assigns all ownership rights in such deliverables, including all intellectual property rights, to the Agency; provided, however, that as to any preexisting works imbedded in such deliverables, Grantee hereby grants the Agency a fully-paid, perpetual license to copy, distribute and adapt the preexisting works.
22. **COMPLIANCE WITH LAWS:** Grantee shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
23. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Grantee. This Contract shall not be amended orally or by performance.
24. **WAIVER:** The failure to enforce or the waiver by the Agency of any right or of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
25. **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

## Notice of Certain Reporting and Audit Requirements

Grantee shall comply with the all rules and reporting requirements established by statute or administrative rules. For convenience, the requirements of 09 NCAC Subchapter 03M.0205 are set forth in this Attachment.

### Reporting Thresholds.

There are three reporting thresholds established for grantees and subgrantees receiving State funds. The reporting thresholds are:

- (1) Less than \$25,000 -- A grantee that receives, uses, or expends State funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by 09 NCAC Subchapter 03M including:
  - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted; and
  - (B) An accounting of the State funds received, used, or expended. All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.
  
- (2) \$25,000 up to \$500,000 - A grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) and up to five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
  - (B) An accounting of the State funds received, used, or expended; and
  - (C) A description of activities and accomplishments undertaken by the grantee with the State funds. All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.
  
- (3) Greater than \$500,000 -- A grantee that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
  - (B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and
  - (C) A description of activities and accomplishments undertaken by the grantee with the State funds. All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine months after the end of the grantee's fiscal year in which the State funds were received.

### Other Provisions:

1. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M.0205 are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Office of Budget and Management(OMB) Circular A-87. The cost of any audit not conducted in accordance with this Subchapter is unallowable and shall not be charged to State or Federal grants.
2. The audit requirements in 09 NCAC Subchapter 03M do not replace a request for submission of audit reports by grant or agencies in connection with requests for direct appropriation of state aid by the General Assembly.
3. Notwithstanding the provisions of 09 NCAC Subchapter 03M, a grantee may satisfy the reporting requirements of Part(a)(3)(B) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.



**FEDERAL CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**  
(Requirement of Governmental Agencies and Non-Profit Organizations)

1. By execution of this Agreement the Contractor certifies that it will provide a drug-free workplace by:
  - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - B. Establishing a drug-free awareness program to inform employees about
    - (1)The dangers of drug abuse in the workplace;
    - (2)The Contractor's policy of maintaining a drug-free workplace;
    - (3)Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4)The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - C. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (A);
  - D. Notify the employee in the statement required by paragraph (A) that, as a condition of employment under the agreement, the employee will:
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer of any criminal drug statue conviction for a violation occurring in the workplace no later than five days after such conviction;
  - E. Notify the Department within ten days after receiving notice under subparagraph (D) (2), with respect to any employee who is so convicted:
    - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local law enforcement, or other appropriate agency; and

Making a good effort to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), and (E).

False certification or violation of the certification may be grounds for suspension of payments, suspension or termination of grants, or government-wide Federal suspension or debarment, 45 C.F.R. 82.510.

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest

FEDERAL CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form ILL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest

**FEDERAL CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY  
EXCLUSION-LOWER TIER COVERED TRANSACTIONS  
(Requirement of Governmental Agencies and Non-Profit Organizations)  
Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant will provide immediate written notice to the person to which the proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used *in* this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to required establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

5.6.a

Date
Agency/Organization
BURKE COUNTY
Title
Signature

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest



**RECREATIONAL TRAILS PROGRAM  
FEDERAL ASSURANCES - COMPLIANCE FORM**  
(Requirement of Governmental Agencies and Non-Profit Organizations)

As the duly authorized representative of the applicant, I certify that the applicant:

Name of Applicant: BURKE COUNTY

1. Will comply with the provisions of Title H, Americans with Disabilities Act of 1991.
2. Will comply with Section 1302 (e) (2) (C) of the RTP that prohibits the use of grant funds to accommodate motorized use on trails that have been predominately used by non-motorized trail users prior to May 1, 1991.
3. Any Federal agency agrees that the construction of new trails crossing Federal lands in compliance with all applicable laws, including the National Environmental Policy Act, the Forest and Rangeland Renewable Resources Planning Act and the Federal Land Policy and Management Act.
4. Any Federal agency agrees that construction of any recreational trail on National Park Service or National Forest Service lands for motorized uses will be on lands proposed for such uses and will not be on lands in designated wilderness areas and that such construction is otherwise consistent with the management direction is such approved land and resources management plan.
5. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
6. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
7. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
8. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
9. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. " 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ' 794) which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination act of 1975, as amended (42 U.S.C. " 6101-6107) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) " 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. ' 3601 et seq.), as amended relating to nondiscrimination in the sale, rental or financing of housing; (i) any other non-discrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination statute(s) which may apply to the application.
10. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and Federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
11. Will comply with the provisions of the Hatch Act (5 U.S.C. " 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in Whole or in part with Federal funds.
12. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

13. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EI 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with (O 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. " 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. ' 7401 et seq.) (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
14. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. " 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
15. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), E0 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
16. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1986.
17. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.
18. "Buy America" provisions apply to steel and iron used in a "Federal-aid highway construction project." If a trail project uses steel for bridges or trail signs and the costs for these items exceeds \$2,500.00, the provisions of 23 CFR 635.410(b)(4) apply.
19. The "Disadvantaged Business Enterprise" (DBE) requirement applies to this RTP grant. The objective of the DBE Program is to provide disadvantaged business enterprises with opportunities to compete for government contracts. In keeping with this requirement, we ask that each RIP grant recipient, where feasible and practical, encourage DBE listed contractors and suppliers to bid for trail work for which you were granted RTP funds. For information about North Carolina Department of Transportation's approved DBE contractors, visit

<https://www.ebs.nc.gov/VendorDirectory/default.html>

Date
Agency/Organization
BURKE COUNTY
Title
Signature

**NORTH CAROLINA'S RECREATIONAL TRAILS PROGRAM  
APPLICATION SIGNATURE PAGE**

"On behalf of the applicant, I hereby certify the information contained in the Recreational Trails Program grant application is true and correct. I understand this application will be rated on the basis of the information submitted and the submission of incorrect data or an incomplete application can result in this application being eliminated from consideration for funding."

"I hereby certify the applicant will comply with all applicable local, state and Federal laws and regulations."

"I hereby certify the availability of a minimum of 25% of the requested Recreational Trails Program grant amount as noted in this application."

Date
Agency/Organization
BURKE COUNTY
Title
Signature
Attested By

**Note:** Non-profit organizations applying for RTP funding for a project located on lands managed by a governmental agency must have the approval of the chief executive officer of the affected land managing agency. This approval is to be represented by the signature of the chief executive officer below.

Approved on
Agency/Organization
Title
By

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest

FEDERAL RECREATIONAL TRAILS PROGRAM
INSURANCE REQUIREMENT NOTIFICATION FORM
(Requirement of Governmental Agencies and Non-Profit Organizations)

A grantee must provide INSURANCE during the term of a State Grant Contract. As a minimum, the grantee shall provide and maintain the following coverage and limits:

- a. Worker's Compensation - The Grantee shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Grantee's employees who are engaged in any work under the contract.
b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit.
c. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina.

As the approved contact for the below listed organization, I sign that I have read and am now aware of the Insurance Requirement that will be noted in the General Terms and Conditions of our pending State Grant Contract.

Form with fields: Date, Agency/Organization (BURKE COUNTY), Title, Signature

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest





## Recreational Trails Program

Number: 20.219

Agency: Department of Transportation Office: Federal Highway Administration (FHWA)

### PROGRAM INFORMATION

#### Authorization (040):

Fixing America's Surface Transportation (FAST) Act., Public Law 114-94, 23 U.S.C 104, 133, 206.

#### Objectives (050):

To provide funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. The funds represent a portion of the motor fuel excise tax collected from nonhighway recreational fuel use.

#### Types of Assistance (060):

Formula Grants; Formula Grants (Apportionments)

#### Uses and Use Restrictions (070):

Funds from this program may be used for: (1) Maintenance and restoration of existing trails; (2) development and rehabilitation of trailside and trailhead facilities and trail linkages; (3) purchase and lease of trail construction and maintenance equipment; (4) construction of new trails (with restrictions for new trails on Federal lands); (5) acquisition of easements or property for trails or trail corridors; (6) assessment of trail conditions for accessibility and maintenance; (7) development and dissemination of publications and operation of educational programs to promote safety and environmental protection (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), (limited to 5 percent of a State's funds); and (8) State administrative costs related to this program (limited to 7 percent of a State's funds). Funds may not be used for: property condemnation; constructing new trails for motorized use on National Forest or Bureau of Land Management lands unless the project is consistent with resource management plans; or facilitating motorized access on otherwise nonmotorized trails. The USDOT encourages States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under this program.

Note: States must return 1 percent of the funds to the FHWA for administrative, research, technical assistance, and training expenses for the program. The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks. Funds from this program may be used for: (1) Maintenance and restoration of existing trails; (2) development and rehabilitation of trailside and trailhead facilities and trail linkages; (3) purchase and lease of trail construction and maintenance equipment; (4) construction of new trails (with restrictions for new trails on Federal lands); (5) acquisition of easements or property for trails or trail corridors; (6) assessment of trail conditions for accessibility and maintenance; (7) development and dissemination of publications and operation of educational programs to promote safety and environmental protection (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), (limited to 5 percent of a State's funds); and (8) State administrative costs related to this program (limited to 7 percent of a State's funds). States must use 40 percent of their funds for diverse recreational trail use, 30 percent for motorized use, and 30 percent for non-motorized use (Connecticut, Delaware, District of Columbia, and Rhode Island have a small State exception).

Note: States must return 1 percent of the funds to the FHWA for administrative, research, technical assistance, and training expenses for the program. The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

#### Eligibility Requirements (080)

##### Applicant Eligibility (081):

(The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations using its administrative funds.)

For funds available to the States: the Governor of each State must designate the State agency or agencies responsible for administering this program. The State must have a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less than once per fiscal year. If the State Recreational Trail Advisory Committee does not meet in a fiscal year, or does not have required representation, the State becomes ineligible for an apportionment. The State agency may accept project proposals from private organizations, or from municipal, county, State, or Federal government entities, and other government entities. The projects must satisfy one or more of the permissible uses. States may provide sub-grants to Federal, State, and local government entities and to private entities, at the discretion of the State.

##### Beneficiary Eligibility (082):

(The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with

other government agencies, institutions of higher learning, or nonprofit organizations using its administrative funds. The State agency designated by the Governor. A State may opt out of the Recreational Trails Program if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.

#### **Credentials/Documentation (083):**

Allowable costs will be determined in accordance with applicable cost principles listed in 2 CFR Part 200 for the kind of organization receiving the grant or sub-grant. 2 CFR 200, Subpart E - Cost Principles applies to this program.

### **Application and Award Process (090)**

#### **Preapplication Coordination (091):**

Most Recreational Trails Program (RTP) projects qualify as Categorical Exclusions under the National Environmental Policy Act (NEPA). Some projects may require Environmental Assessments. Projects that may have a significant environmental impact may require Environmental Impact Statements. An environmental impact statement is required for this program. An environmental impact assessment is required for this program. This program is eligible for coverage under E.O. 12372, "Intergovernmental Review of Federal Programs." An applicant should consult the office or official designated as the single point of contact in his or her State for more information on the process the State requires to be followed in applying for assistance, if the State has selected the program for review.

#### **Application Procedures (092):**

This program is excluded from coverage under 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. For funds available to the States: The States must submit project proposals to the FHWA division office located in each State for approval. The State may submit individual projects or consolidate similar projects for the purposes of program approval. FHWA approval constitutes a commitment to pay the Federal share of the project's cost. The State's projects also must be included in State transportation improvement programs and applicable metropolitan transportation improvement programs.

For FHWA's administrative, research, technical assistance, and training expenses, FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks. Contracts are announced through [www.fbo.gov](http://www.fbo.gov). Cooperative agreements are announced through [www.grants.gov](http://www.grants.gov).

#### **Award Procedure (093):**

For funds available to the States: The State agency or agencies designated by the Governors decide which projects will be developed within funding levels, but the FHWA division office located in each State makes the final decision on the eligibility of specific projects for funding.

#### **Deadlines (094):**

Contact the headquarters or regional office, as appropriate, for application deadlines.

#### **Range of Approval/Disapproval Time (095):**

From 5 days to 5 months. In some States, requirements for projects to be listed in statewide or metropolitan transportation improvement programs may add up to a year of delay.

#### **Appeals (096):**

Not Applicable.

#### **Renewals (097):**

Not Applicable.

### **Assistance Consideration (100)**

#### **Formula and Matching Requirements (101):**

Statutory Formula: Title 23 U.S.C., Part 133(h), 206, and former 213(f) and (g), Public Law 114-94. 133(h), 206, and former 213(f) and (g). See [http://www.fhwa.dot.gov/environment/recreational\\_trails/legislation/](http://www.fhwa.dot.gov/environment/recreational_trails/legislation/).

Matching Requirements: Percent: 80%. The Federal share is subject to a sliding scale under 23 U.S.C. 120(b). Funds from any other Federal program may be used for the non-Federal match if the project also is eligible under the other program. Recreational Trails Program funds may be used to match other Federal funds if the project also is eligible under the other program. States also may allow a programmatic match: if some project sponsors in a State provide more match funds than required, other sponsors in the State may provide less. Some in-kind materials and services may be credited toward the project match. States may allow some pre-approval planning and environmental assessment costs toward the project match. See [http://www.fhwa.dot.gov/environment/recreational\\_trails/guidance/matchingfunds.cfm](http://www.fhwa.dot.gov/environment/recreational_trails/guidance/matchingfunds.cfm). This program does not have MOE requirements.

**Length and Time Phasing of Assistance (102):**

Funds generally become available at the beginning of the fiscal year for which they are authorized, and must be obligated within 3 years after the close of that fiscal year. See the following for information on how assistance is awarded/released: The method of money release varies case by case.

**Post Assistance Requirements (110)****Reports (111):**

No reports are required.

**Audits (112):**

In accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, non-Federal entities that expend financial assistance of \$750,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Non-Federal entities that expend less than \$750,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503.

**Records (113):**

Project records and documents must be retained by the State for 3 years following the final submission for Federal payment in accordance with 2 CFR 200.

**Financial Information (120)****Account Identification (121):**

69-8083-0-7-401.

**Obligations (122):**

(Formula Grants (Apportionments)) FY 15 \$80,741,889; FY 16 est \$82,365,802; and FY 17 est \$82,365,802 - The Recreational Trails Program has continued as a set-aside of funds under the Transportation Alternatives Program (20.205) at up to \$84,160,000 per year. A State may choose to opt out of the program in a fiscal year: Connecticut opted out for FY 2016. Remaining unobligated balances from prior years may be available. Note: States must return 1 percent of the funds to the FHWA for administrative, research, technical assistance, and training expenses for the program. The FHWA may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

**Range and Average of Financial Assistance (123):**

Apportionments to the States are based on statutory formula. All 50 States and the District of Columbia are eligible to receive apportionments. For FY 2015: \$83,318,400 was potentially available; \$80,741,889 was apportioned (Florida opted out for FY 2015). Awards ranged from \$816,847 to \$5,698,627; the average was \$1,614,838.

**Program Accomplishments (130):**

Fiscal Year 2015: States obligated \$72 million for approximately 1,100 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2016: States will obligate about \$75-\$85 million for about 1,200 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2017: No Current Data Available

**Regulations, Guidelines, and Literature (140):**

23 CFR, Highways and 49 CFR, Transportation. There are no regulations specifically for the Recreational Trails Program. Program guidance was completed on April 1, 1999; and is posted at <http://www.fhwa.dot.gov/environment/rectrails/guidance.htm> along with program updates. Program guidance under MAP-21 is posted at <http://www.fhwa.dot.gov/map21/guidance/guidetap.cfm> with Questions and Answers at <http://www.fhwa.dot.gov/map21/qandas/qatap.cfm>. New guidance under the FAST Act will be posted at [http://www.fhwa.dot.gov/environment/transportation\\_alternatives/](http://www.fhwa.dot.gov/environment/transportation_alternatives/).

**Information Contacts (150)****Regional or Local Office (151):**

See Regional Agency Offices. State-level offices of the Federal Highway Administration (as listed in Appendix IV of the Catalog) or the State agency designated by the Governor to administer this program.

**Headquarters Office (152):**

Christopher B. Douwes 1200 New Jersey Ave S.E., Washington, District of Columbia 20590 Email: christopher.douwes@dot.gov  
Phone: (202) 366-5013 Fax: (202) 366-3409

**Website Address (153):**

[http://www.fhwa.dot.gov/environment/recreational\\_trails/](http://www.fhwa.dot.gov/environment/recreational_trails/)

**Related Programs (160):**

20.205 Highway Planning and Construction

**Examples of Funded Projects (170):**

Fiscal Year 2015: States obligated \$72 million for about 1,100 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2016: States will obligate approximately \$75-\$85 million for about 1,200 projects. RTP-funded projects provide accessibility improvements, access to health and fitness, active transportation for safe and livable communities, youth employment, economic stimulus, and habitat conservation. Examples of RTP-funded projects include trails, trail bridges, and trail facilities for uses including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Fiscal Year 2017: Similar projects will be completed as noted in FY15, and 16.

**Criteria for Selecting Proposals (180):**

Each State (and the District of Columbia) solicits and selects projects for funding. To be eligible, projects must be selected on the basis of State priorities within the limit of the funds apportioned to each State.



Place Holder for **Secretary Award Letter**

Please reference the Secretary Award Letter under Attachments in the Grant Management System (GMS).

*The remainder of this page is intentionally blank*

Place Holder for **Application Form**

Please reference the Application form in the Grant Management System (GMS).

*The remainder of this page is intentionally blank*

### Deliverables from Application

DIL	Item Type	Description	Accom. By	Unit(s)	Units of Meas.	Rate	RTP Funds	Match Funds	Total Amount
1	P001 New Trail/Greenway - Unpaved	New 5' Earthen Surface Trail	Contracted	1,375	linear feet	4	\$4,400.00	\$1,100.00	\$5,500.00
2	P012 New Trail Facility	New 6' Clear width Boardwalk	Contracted	225	linear feet	450	\$81,000.00	\$20,250.00	\$101,250.00
3	P012 New Trail Facility	New Road Crossing	Contracted	1		5,000	\$4,000.00	\$1,000.00	\$5,000.00
Sub Total(s)							\$89,400.00	\$22,350.00	\$111,750.00

Attachment: RTP2020-8169\_Burke Co-NW Gap 2\_Contract Draft (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest





5.6.b

Attachment: Project Map (3021 : Accept Recreational Trails Program 2020 Grant Contract - Northwest

Fonta Flora County Park

Pisgah Game Lands

NC 126

New Crossing

New Boardwalk  
Approx 225ft

End of RTP 18 Project

MST CONNECTOR

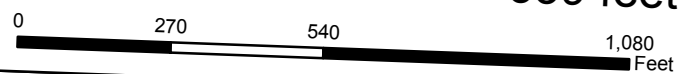
LAKE JAMES

FONTA FLORA  
STATE TRAIL



USGS Ashford Quad  
USGS Oak Hill Quad  
Catawba River Basin

1 inch = 339 feet



**Burke County RTP 2020 Project  
Fonta Flora State Trail - Northwest Gap  
Project Specific Map**



This map is not survey accurate and is for planning purposes only

- New Boardwalk
- New Trail
- - - Uphill EEST



**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

---

**Subject Title: CD - Resolution to Support 2021 Recreational Trails Program Grant Application  
- OVNHT/FFST Canal Bridge**

**Presented By: Shane Prisby**

**Summary of Information:** The Community Development Department is applying for a 2021 Recreational Trails Program (RTP) grant. If awarded, this grant will fund a new section of trail connecting the existing sections of the Overmountain Victory National Historic Trail and Fonta Flora State Trail at Lake James State Park to other portions of the park across Canal Bridge on NC 126.

**Budgetary Effect:** There is no effect to the County budget. The grant match will come from the Duke Energy CRA Agreement and/or additional grant funding secured in the future.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion: To adopt Resolution No. 2020-07.**

**Burke County  
North Carolina**

**Resolution in Support of Application to the 2021 Recreational Trails Program  
Overmountain Victory National Historic Trail - Canal Bridge**

**WHEREAS** the North Carolina State Trails Program administered by the North Carolina Division of Parks and Recreation is tasked with distributing funds from the 2021 Recreational Trails Program; and

**WHEREAS** the North Carolina Trails Committee invited Burke County to apply for funds for the Overmountain Victory National Historic Trail (OVNHT) and Fonta Flora State Trail (FFST), and more specifically the OVNHT/FFST - Canal Bridge project; and

**WHEREAS** in order to receive funds Burke County is required to provide a 25 percent match up to \$50,000 for a request of \$200,000, which is the maximum for the 2021 grant cycle; and

**WHEREAS** Burke County desires to continue advancing the OVNHT and FFST by connecting sections of Lake James State Park across Canal Bridge on NC 126; and

**WHEREAS** this match will be provided via monies from Duke Energy's obligation to part of the Overmountain Victory National Historic Trail through the Comprehensive Relicensing Agreement (CRA) with the Federal Energy Regulatory Commission and/or additional grant funding secured in the future.

**NOW THEREFORE** the Burke County Board of Commissioners resolves to support the application to the 2021 Recreational Trails Program and provide the 25 percent match via OVNHT CRA funding and/or additional grant funding secured in the future.

Adopted this 21<sup>st</sup> day of April 2020.

\_\_\_\_\_  
Johnnie W. Carswell, Chairman  
Board of Commissioners

Attest:

\_\_\_\_\_  
Kay H. Draughn, CMC, NCMCC  
Clerk to the Board

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**

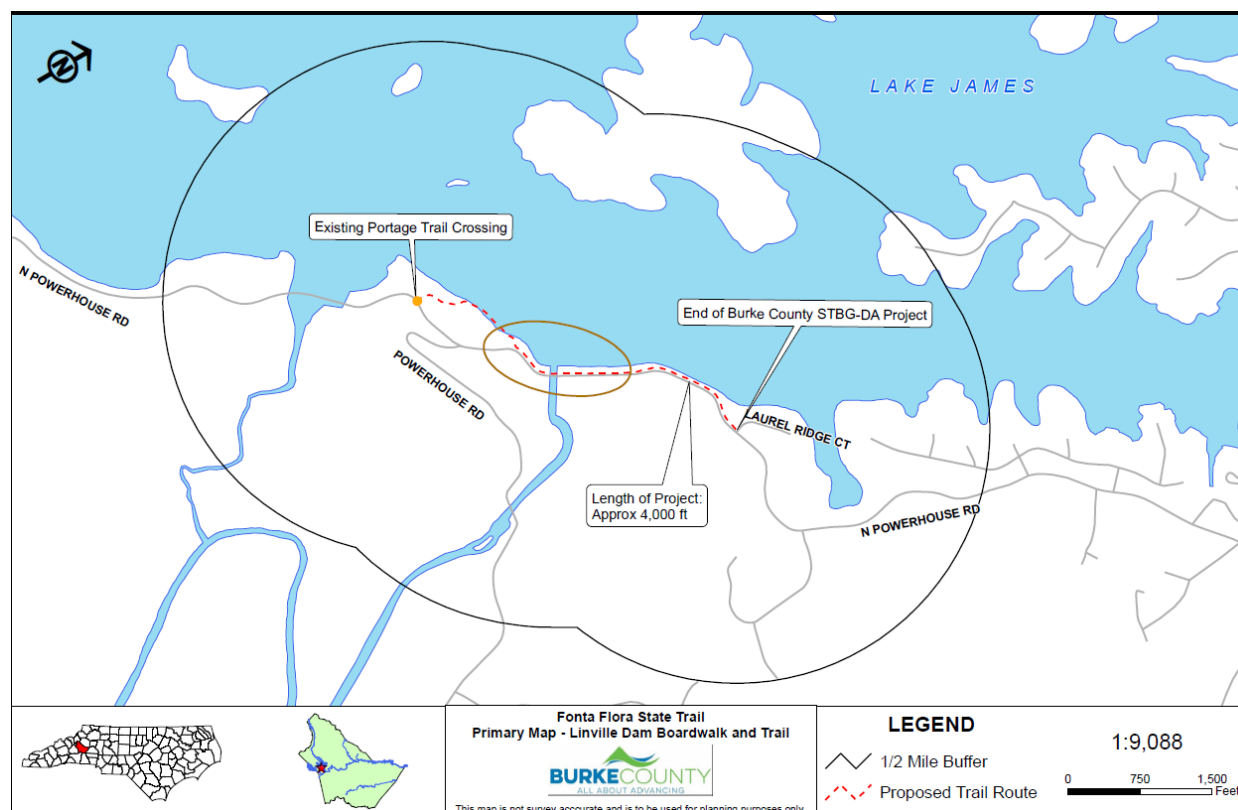


**CONSENT AGENDA**

**Subject Title: Comm. Dev. - Accept STBG-DA Grant Agreement - Linville Dam**

**Presented By: Shane Prisby**

**Summary of Information:** The Greater Hickory Metropolitan Planning Organization (GHMPO) issued a call for projects to agencies in its jurisdiction for Surface Transportation Block Grant - Direct Attributable Funding (STBG-DA). Burke County Community Development Department applied for and was awarded \$400,000 for the Fonta Flora State Trail - Linville Dam and Boardwalk and trail. This grant will be matched with \$100,000 of County funds approved by the Board of Commissioners as part of the FY 20 budget.



**Budgetary Effect:** The grant match was approved as part of the FY 20 budget.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion:** To approve the STBG-DA grant contract between the North

**Carolina Department of Transportation and Burke County. Further, authorize the County Manager to execute the agreement on behalf of the Board, subject to review and/or revision by the County Attorney.**



NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -  
FEDERAL**

BURKE COUNTY

DATE: 3/18/2020

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: EB-5934

AND

WBS Elements: PE 48175.1.1

ROW \_\_\_\_\_

BURKE COUNTY

CON \_\_\_\_\_

OTHER FUNDING:

FEDERAL-AID NUMBER: 1143025

CFDA #: 20.205

Total Funds [NCDOT Participation] \$400,000

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and Burke County, hereinafter referred to as the "County".

**WITNESSETH:**

WHEREAS, Fixing America's Surface Transportation (FAST) Act allows for the allocation of federal funds to be available for certain specified transportation activities; and,

WHEREAS, the County has requested federal funding for Linville Dam Boardwalk and Trail, hereinafter referred to as the Project, in Burke County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the County has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$400,000 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the County for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the County has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

## 1. GENERAL PROVISIONS

### FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

### AGREEMENT MODIFICATIONS

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a Supplemental Agreement.

### LOCAL PUBLIC AGENCY TO PERFORM ALL WORK

The County shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the County and/or its contractors and agents. The Department will provide technical oversight to guide the County. The Department must approve any assignment or transfer of the responsibilities of the County set forth in this Agreement to other parties or entities.

### PERSON IN RESPONSIBLE CHARGE

The County shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the County, but the duties may be split among several employees, if necessary.

#### **COMPLIANCE WITH STATE/FEDERAL POLICY**

The County, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

#### **FAILURE TO COMPLY - CONSEQUENCES**

Failure on the part of the County to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

## **2. SCOPE OF PROJECT**

The Project consists of Preliminary Design of a section of the Fonta Flora State Trail, which extends along North Powerhouse Road from Laurel Ridge Court across the Linville Dam to the existing Portage Trail. The multi-use trail will be a combination of paved surface along the road and a boardwalk section to cross the dam.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation

as further set forth in this Agreement.

### 3. FUNDING

#### PROGRAMMING AND AUTHORIZATION OF FEDERAL FUNDS

The funding currently programmed for the project in the State Transportation Improvement Program (STIP) is BGDA. The funding source may be modified with the coordination and approval of the respective Metropolitan Planning Organization (MPO) and/or the Department prior to authorization of funds. The Department will authorize and reimburse federal funding based on the type of federal funding that is programmed in the STIP at the time of the authorization request. The Department will notify the County of the type of federal funds authorized by issuing a Technical Amendment – Funds Authorization letter. A modification in the source of funds will have no effect on project responsibilities outlined in this agreement.

#### REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the County with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse (80%) of eligible expenses incurred by the Municipality up to a maximum amount of Four Hundred Thousand Dollars (\$400,000), as detailed below. The County shall provide the non-federal match, as detailed in the FUNDING TABLE below, and all costs that exceed the total estimated cost.

#### FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
BGDA	\$400,000	80%	\$100,000	20%
<b>Total Estimated Cost</b>		<b>\$500,000</b>		

Attachment: Burke County\_EB-5934\_9281 (3022 : Accept STBG-DA Grant Agreement - Linville Dam)



## WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce the funding available to the County under this Agreement. The Department will set aside ten percent (10%) of the total estimated cost, or \$50,000, to use towards the costs related to review and oversight of this Project, including, but not limited to review and approval of plans, environmental documents, contract proposals, engineering estimates, construction engineering and inspection oversight, and other items as needed to ensure the County's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the County at the above reimbursement rate. For all costs of work performed on the Project, whether incurred by the County or by the Department, the County shall provide the non-federal match. The Department will bill the County for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

## 4. PERIOD OF PERFORMANCE

The County has three (3) years to complete all work outlined in the Agreement from the date of authorization of Federal Preliminary Engineering funds. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

If additional time is needed to complete the Project, then a supplemental agreement must be executed. The Department and/or FHWA reserves the right to revoke the funds awarded if the County is unable to meet milestone dates included herein.

## 5. PRELIMINARY ENGINEERING AUTHORIZATION

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the County, in writing, once funds have been authorized and can be expended. The County shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

## 6. PROFESSIONAL AND ENGINEERING SERVICES

The County shall comply with the policies and procedures of this provision if the County is requesting reimbursement for the Preliminary Engineering contract or the Construction Contract Administration / Construction Engineering and Inspection contract.

### PROCUREMENT POLICY

When procuring professional services, the County must adhere to Title 2 Code of Federal Regulations Part 200; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64, Parts 31 and 32; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at [www.fhwa.dot.gov/legsregs/legislat.html](http://www.fhwa.dot.gov/legsregs/legislat.html) and [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

- The County shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department in the Work Codes advertised.
- A pre-negotiation audit will be conducted by the Department's External Audit Branch. The County shall not execute a consultant contract until the Department's review has been completed.

### SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The County shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the County fails to comply with these requirements, the Department will withhold funding until these requirements are met.

## WORK BY ENTITY

If the Design, Planning, Contract Administration and/or Construction Engineering and Inspection required for this project will be undertaken by the County, and the County requests reimbursement, then the County must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the County.

## 7. PLANNING / ENVIRONMENTAL DOCUMENTATION

The County shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The County shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The County shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the County shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The County shall bear all costs associated with penalties for violations and claims due to delays.
- The County shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at [www.ncleg.net/gascripts/Statues/Statutes.asp](http://www.ncleg.net/gascripts/Statues/Statutes.asp) and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the County, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

## 8. DESIGN

### CONTENT OF PLAN PACKAGE

The County, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

## 9. RIGHT OF WAY / UTILITY AUTHORIZATION

If the costs of right of way acquisition or utility relocation are an eligible expense, the County shall submit a letter of request to the Department to authorize and set up right of way and/or utility funding. The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the County receives written authorization from the Department to proceed.

## 10. PROJECT LIMITS AND RIGHT OF WAY (ROW)

The County shall comply with the policies and procedures of this provision regardless of whether the County is requesting reimbursement for the Right of Way phase of the Project.

### SPONSOR PROVIDES ROW

The County, at no liability whatsoever to the Department, shall be responsible for providing and/or acquiring any required ROW and/or easements for the Project.

### ROW GUIDANCE

The County shall accomplish all ROW activities, including acquisition and relocation, in accordance with the following: Title 23 of the Code of Federal Regulations, Part 710, Subpart B and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at [www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm); NCGS, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp); and the North Carolina Department of Transportation Right of Way Manual.



## **APPRAISAL**

The County shall submit the appraisal to the Department for review and approval in accordance with Departmental policies and procedures.

## **CLEARANCE OF PROJECT LIMITS / ROW**

The County shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said ROW, with the exception that the County shall secure an encroachment agreement for any utilities (which shall remain or are) to be installed within the Department's ROW, or follow other applicable approval process, for utilities within the County's ROW. The County shall indemnify and save harmless the Department, Federal Highway Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project. The County shall be solely responsible for any damages caused by the existence of said material now and at any time in the future and will save the Department harmless from any legal actions arising as a result of this contaminated and/or hazardous material and shall provide the Department with documentation proving the proper disposal of said material.

## **RELOCATION ASSISTANCE**

The County shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of Title 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Highway Administration.

## **11. UTILITIES**

The County, and/or its agent, at no liability to the Department, shall relocate, adjust, relay, change or repair all utilities in conflict with the Project, regardless of ownership. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to County beginning construction of the project. This Agreement does not modify or supersede any existing Utility Encroachment Agreements that may be in place.

## 12. RIGHT OF WAY / UTILITY / RAILROAD CERTIFICATION

The County, upon acquisition of all right of way/property necessary for the Project, relocation of utilities, and coordination with the railroad shall provide the Department all required documentation (deeds/leases/easement/plans/agreements) to secure certification. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document; utilities in conflict with the project are relocated, or a plan for their relocation during construction has been approved; and coordination with the railroad (if applicable) has occurred and been documented.

## 13. CONTRACT PROPOSAL AND ENGINEER'S ESTIMATE

### CONTRACT PROPOSAL

The County shall develop a contract proposal that will be advertised for bids. The proposal shall comply with NCDOT Specifications and Standard Drawings as applicable to the Project. The proposal shall also contain provisions, as applicable, per Title 23 Code of Federal Regulations 633 and 635 to include, but not be limited to: FHWA 1273, Buy America, Davis-Bacon Wage Rates, Non-discrimination, DBE Assurances, Contractor Certification regarding suspension and debarment, and other provisions as required by the Department.

### ENGINEER'S ESTIMATE

The County shall develop an itemized engineer's estimate to show items referenced to the NCDOT Standard Specifications, if applicable, along with units and unit price. The engineer's estimate will be used as the basis for comparing bids received.

## 14. CONSTRUCTION AUTHORIZATION

The County shall submit the required environmental and/or planning document, ROW certification, final construction plans, total contract proposal, and an estimate of Project costs (final PS&E package) to the Department for review and approval.

- After approval of all documentation, the Department will request construction authorization from the Federal Highway Administration.
- The County shall not advertise for bids prior to receiving written construction authorization from the Department.

## 15. CONTRACTOR PROCUREMENT

### ADVERTISE FOR BIDS

Upon receipt of written construction authorization from the Department, the County may advertise the Project. The County shall follow applicable Federal and/or State procedures pertaining to the advertisement of the Project, bid opening, and award of the contract, according to Title 2 of the Code of Federal Regulations, Part 200 and Title 23 of the Code of Federal Regulations, Part 633 and Part 635, incorporated by reference at [www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm); and NCGS, Chapter 143, Article 8 (Public Contracts), incorporated by reference at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

### CONSTRUCTION CONTRACTOR REQUIREMENTS

All Contractors submitting bids on the project shall be pre-qualified by the Department. All proposed subcontractors must be pre-qualified before construction work begins. Any subcontractors who are proposed to meet the Disadvantaged Business Enterprise goal must be certified by the Department.

### CONSTRUCTION SUBCONTRACTOR REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 of the Code of Federal Regulations, Part 26 and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference <https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>.

- The County shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the County fails to comply with these requirements, the Department will withhold funding until these requirements are met.

### AWARDING CONTRACT

After the advertisement of the Project for construction bids, the County shall request concurrence from the Department to award the construction contract by submitting a letter along with tabulated

bids received depicting Disadvantaged Business Enterprises (DBE) goals, and a resolution recommending award of the Project to the lowest responsible, responsive bidder. The Department will review the submitted information and provide written approval to the County prior to the contract being awarded by the County.

### **DELAY IN PROCUREMENT**

In the event the Project has not been let to contract within six (6) months after receiving construction authorization from the Department, the County shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.

### **FORCE ACCOUNT**

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the County. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference [www.fhwa.dot.gov/legregs/directives/cfr23toc.htm](http://www.fhwa.dot.gov/legregs/directives/cfr23toc.htm). North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

## **16. CONSTRUCTION**

The County, and/or its agents shall construct the Project in accordance with the plans and specifications of the Project as filed with, and approved by, the Department. During the construction of the Project, the procedures set out below shall be followed:

### **CONSTRUCTION CONTRACT ADMINISTRATION**

The County shall comply with the NCDOT Construction Manual as referenced at <http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/constructionunit/formsmanuals/construction/>, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports, material test reports, materials certification, documentation of quantities, project diaries, and pay records. The County, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with



Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. The County shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

#### **RETAINAGE**

The County shall not retain any portion of a payment due the contractor.

#### **SIGNAGE**

The County shall provide and maintain adequate signage and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

#### **SITE LAYOUT**

The County shall be responsible for ensuring that all site layout, construction work, and Project documentation are in compliance with applicable city, state and federal permits, guidelines, and regulations, including American Association of State Highway and Transportation Officials (AASHTO) guidelines and Americans with Disabilities Act (ADA) Standards for Accessible Design ([www.usdoj.gov/crt/ada/stdspdf.htm](http://www.usdoj.gov/crt/ada/stdspdf.htm)).

#### **RIGHT TO INSPECT**

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the County or the County's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

#### **CONTRACTOR COMPLIANCE**

The County will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

**CHANGE ORDERS**

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

**SHOP DRAWINGS**

Shop Drawings shall be submitted in accordance with the approved plans and specifications and may require review by the Designer.

**17. CLOSE-OUT**

Upon completion of the Project, the County shall be responsible for the following:

**FINAL INSPECTION**

The County shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the County. Additional inspection by other entities may be necessary in accordance with the Department's guidelines and procedures. The County shall provide the Department with written evidence of approval of completed project prior to requesting final reimbursement.

**FINAL PROJECT CERTIFICATION**

The County will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

**18. MAINTENANCE**

The County, at no expense or liability to the Department, shall assume all maintenance responsibilities for the Linville Dam Boardwalk and Trail, or as required by an executed encroachment agreement.

**19. REIMBURSEMENT****SCOPE OF REIMBURSEMENT**

Activities eligible for funding reimbursement for this Project shall include:

- Design
- Environmental Documentation

## REIMBURSEMENT GUIDANCE

The County shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 ([www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm)) "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." Reimbursement to the County shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at [www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm). Reimbursement to the County shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the County with all applicable federal policy and procedures.

## REIMBURSEMENT LIMITS

- **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the County prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

- **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the County costs that exceed the total funding per this Agreement and any Supplemental Agreements.

- **UNSUBSTANTIATED COSTS**

The County agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

- **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$400,000 available to the County under this Agreement. The Department will bill the County for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

- **CONSTRUCTION ADMINISTRATION**

Reimbursement for construction contract administration will be made as governed by Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project. These costs will also include any cost overruns and charges to the Project by the Department during the Construction Phase.

- **CONSTRUCTION CONTRACT UNIT PRICES**

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

- **RIGHT OF WAY**

Reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: realty appraisals, surveys, closing costs, and the agreed upon just compensation for the property, at the reimbursement rate as shown in the FUNDING TABLE.

- **FORCE ACCOUNT**

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by the County or its Project partners. Reimbursement rates for equipment owned by the County or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.



## BILLING THE DEPARTMENT

### ▪ PROCEDURE

The County may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the County certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the County is responsible for submitting the FFATA Subrecipient Information Form, which is available at <https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

### ▪ INTERNAL APPROVALS

Reimbursement to the County shall be made upon approval of the invoice by the Department's Financial Management Division.

### ▪ TIMELY SUBMITTAL OF INVOICES

The County may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the County is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

### ▪ FINAL INVOICE

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

## 20. REPORTING REQUIREMENTS AND RECORDS RETENTION

### PROJECT EVALUATION REPORTS

The County is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

## PROJECT RECORDS

The County and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the County shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

## 21. OTHER PROVISIONS

### REFERENCES

It will be the responsibility of the County to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

### INDEMNIFICATION OF DEPARTMENT

The County agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

### DEBARMENT POLICY

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the County certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

## **TITLE VI - CIVIL RIGHTS ACT OF 1964**

The County shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

## **OTHER AGREEMENTS**

The County is solely responsible for all agreements, contracts, and work orders entered into or issued by the County for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.

## **AVAILABILITY OF FUNDS**

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

## **IMPROPER USE OF FUNDS**

Where either the Department or the FHWA determines that the funds paid to the County for this Project are not used in accordance with the terms of this Agreement, the Department will bill the County.

## **TERMINATION OF PROJECT**

If the County decides to terminate the Project without the concurrence of the Department, the County shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

## **AUDITS**

In accordance with 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F – Audit Requirements, and the Federal Single Audit Act Amendments of 1996, the County shall arrange for an annual independent financial and compliance audit of its fiscal operations. The County shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the County's fiscal year ends.

## REIMBURSEMENT BY COUNTY

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the County to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

## USE OF POWELL BILL FUNDS

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

## ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.

## AUTHORIZATION TO EXECUTE

The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.

## FACSIMILE SIGNATURES

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

## GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional,



engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

## 22. SUNSET PROVISION

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the County.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the County by authority duly given.

L.S. ATTEST: \_\_\_\_\_ BURKE COUNTY  
BY: \_\_\_\_\_ BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_ TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_

Burke County

Remittance Address:

\_\_\_\_\_

\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

DATE: \_\_\_\_\_

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_(Date)

Attachment: Burke County\_EB-5934\_9281 (3022 : Accept STBG-DA Grant Agreement - Linville Dam)

**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

**Subject Title: Tax Dept. - Tax Collection Report for March 2020**

**Presented By: Danny Isenhour**

**Summary of Information:** The Board of Commissioners is presented with the Tax Collection Report for the period between July 1, 2019 and March 31, 2020. It reflects the status of collections by the Burke County Tax Collection's Staff. Included is the status comparing Collections to Levy and comparing Collections to Budget. Levy information is for Property Tax only and does not include the Vehicle Tax.

The information below is comparing Tax Collections to the Tax Levy. Tax Levy is the total taxable property value times the tax rate. The levy changes monthly with the addition of discoveries, other changes or corrections and when Public Utility values are added.

<b>Category</b>	<b>Tax Levy</b>	<b>Amount Collected YTD</b>	<b>Balance to Collect</b>	<b>% Collected</b>
Property Tax	\$44,881,650.00	\$	\$	%

The information below is comparing Tax Collections for Property Tax and Motor Vehicle Tax to the Annual Budget. This information is a supplement to the Annual Settlement Report.

<b>Category</b>	<b>Annual Budget</b>	<b>Amount Collected YTD</b>	<b>Balance to Collect</b>	<b>% Collected</b>
Current Year Taxes	\$48,070,000.00	\$	\$	%
Delinquent Taxes	\$650,000.00	\$	\$	%
Late List Penalty	\$250,000.00	\$	NONE	%

These two items below make up the current year taxes above.

<b>Category</b>	<b>Annual Budget</b>	<b>Amount Collected YTD</b>	<b>Balance to Collect</b>	<b>% Collected</b>
Property Tax	\$43,470,000.00	\$	\$	%
Motor Vehicle Tax	\$4,600,000.00	\$	\$	%

**Budgetary Effect:** None.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion:** To accept the Tax Collection Report for March 2020 as presented.



**Burke County, North Carolina**  
**Agenda Abstract**  
**Meeting Date: April 7, 2020**



**CONSENT AGENDA**

**Subject Title: Tax Dept. - Release Refund Report for March 2020**

**Presented By: Danny Isenhour**

**Summary of Information:** Releases in value and/or refunds of taxes typically occur when:

- Taxpayers submit information that creates a reduction in value.
- Situs is corrected between counties and/or municipalities.
- Valuation appeals reduce the value for real or personal property.
- The postmark reveals a payment was timely sent.

The Board of Commissioners is presented with the following list of releases and refunds for consideration. The Net Release is a result of the Report Amount minus the Rebilled Amount.

<b>Tax System Refunds and Releases</b>				
	<b>Report Amount</b>	<b>Rebilled Amount</b>	<b>Net Release</b>	<b>Refund Amount</b>
Releases (TR-304)	\$	\$	\$	\$

<b>VTS Refunds Over \$100</b>	
	<b>Refund Amount</b>
VTS Adjustments	\$

\*Note: The net loss amount is a result of the report amount minus the rebilled amount.

**Budgetary Effect:** None.

**County Manager's Recommendation:** Approval is recommended.

**Suggested Motion:** To approve the Tax Releases and Refunds for March 2020 as presented.