

French Broad River Metropolitan Planning Organization

In Buncombe County, Haywood County and Henderson County, North Carolina

Memorandum of Understanding

Adopted by the Transportation Advisory Committee
For the French Broad River Metropolitan Planning Organization
August 21, 2003

**MEMORANDUM OF UNDERSTANDING
FOR**

COOPERATIVE, COMPREHENSIVE, AND CONTINUING TRANSPORTATION PLANNING

AMONG

THE GOVERNOR OF THE STATE OF NORTH CAROLINA,
THE NORTH CAROLINA BOARD OF TRANSPORTATION,
THE CITY OF ASHEVILLE, TOWN OF BILTMORE FOREST, TOWN OF BLACK MOUNTAIN,
BUNCOMBE COUNTY, TOWN OF CANTON, TOWN OF CLYDE, VILLAGE OF FLAT ROCK,
TOWN OF FLETCHER, HAYWOOD COUNTY, HENDERSON COUNTY, CITY OF HENDERSONVILLE,
TOWN OF LAUREL PARK, TOWN OF MILLS RIVER, TOWN OF MAGGIE VALLEY, TOWN OF
MONTREAT, TOWN OF WAYNESVILLE, TOWN OF WEAVERVILLE, TOWN OF WOODFIN
(Hereinafter referred to as the Municipalities, the County, and the State)

IN COOPERATION WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION

WITNESSETH THAT:

WHEREAS, Chapter 136, Article 16, Section 136-200.1 of the General Statutes of North Carolina states:

“Metropolitan planning organizations established pursuant to the provisions of 23 U.S.C 134 are hereby recognized under the law of the State. Metropolitan planning organizations in existence on the effective date of this section continue unaffected until redesignated or restructured in accordance with the provisions of and according to the procedures established by 23 U.S.C 134 and this Article. The provisions of this Article are intended to supplement the provisions of 23 U.S.C 134. In the event any provision of this Article is deemed inconsistent with the requirements of 23 U.S.C 134, the provisions of federal law shall control. (2000-80, s. 4.)”

WHEREAS, Section 134(a) of Title 23 of the United States Code states:

“It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities), which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems”; and,

WHEREAS, a transportation planning process includes the operational procedures and working arrangements by which short and long-range transportation plans are soundly conceived and developed and continuously evaluated in a manner that will:

1. Assist governing bodies and official agencies in determining courses of action and in formulating attainable capital improvement programs in anticipation of community needs; and,
2. Guide private individuals and groups in planning their decisions which can be important factors in the pattern of future development and redevelopment of the area; and,

WHEREAS, it is the desire of these agencies that a continuing, comprehensive, cooperative transportation planning process be established to comply with 23 U.S.C. subsections 134, as amended; the Urban Mass Transportation Act of 1964, as amended; and the Transportation Efficiency Act of the 21st Century (TEA 21) of 1998.

NOW THEREFORE the Memorandum of Understanding is made:

SECTION I. It is hereby agreed that the Municipalities, the Counties, and the State, in cooperation with the United States Department of Transportation will participate in a continuing transportation planning process with responsibilities and undertakings as related in the following paragraphs:

- A. The area involved - the French Broad River Metropolitan Planning Organization - will consist of the Asheville Urbanized Area as defined by the United States Department of Commerce, Bureau of the Census, in addition to that area beyond the existing urbanized area boundary that is expected to become urban within a twenty-year planning period. This area is hereinafter referred to as the Planning Area.
- B. The French Broad River Metropolitan Planning Organization, hereinafter referred to as the French Broad River MPO, shall include the local governments of the Municipalities and the County, the North Carolina Department of Transportation; a Transportation Advisory Committee hereinafter defined, a Technical Coordinating Committee hereinafter defined, and the various agencies and units of local and State government participating in the transportation planning for the area.
- C. The continuing transportation planning process will be a cooperative one and all planning discussions will be reflective of and responsible to the comprehensive plans for growth and development of the Planning Area.
- D. The continuing transportation planning process will be conducted in accordance with the intent, procedures, and programs of Title VI of the Civil Rights Act of 1964, as amended.
- E. The Urbanized Area Boundary and the Metropolitan Area Boundary shall be periodically reviewed and revised in light of new developments and basic data projections.
- F. Transportation plans, programs and data collection will be coordinated with the Lead Planning Agency for the Rural Planning Organization and shall be conducted according to applicable interagency agreements.
- G. Transportation Advisory Committee Established**

A Transportation Advisory Committee is hereby established with the responsibility for cooperative transportation planning decision making for the French Broad River MPO. The Transportation Advisory Committee shall have the responsibility for keeping the policy boards of the participating local governments informed of the status and requirements of the

transportation planning process; for assisting in the dissemination and clarification of the decisions and policies of the policy boards; and for providing opportunities for citizen participation in the transportation planning process.

The Transportation Advisory Committee in cooperation with the State, and in cooperation with publicly owned operators of mass transportation services, shall be responsible for carrying out the urban transportation planning process specified in the U. S. Department of Transportation Program Manuals and shall develop the planning work program, Transportation Plan, and Transportation Improvement Program as specified in such manuals.

The Transportation Advisory Committee shall be the forum for cooperative decision-making by elected officials of General Purpose Local Government and therefore shall function as a Transportation Advisory Committee in conformance with the North Carolina Highway Action Plan. However, this shall not limit the Transportation Advisory Committee's local responsibility for (1) insuring that the transportation planning process and the plans and improvement projects which emerge from that process are consistent with the policies and desires of local government; nor, (2) serving as a forum for the resolution of conflicts which arise during the course of developing the Transportation Plan and the Transportation Improvement Programs.

H. Transportation Advisory Committee Membership

The Transportation Advisory Committee will consist of the Chief Elected or other elected representative(s) from the following Boards of General Purpose Local Government as well as from the North Carolina Board of Transportation and Federal Highway Administration. Each agency will have a single representative except as indicated below:

1. Asheville City Council (two representatives)
2. Biltmore Forest Board of Commissioners
3. Black Mountain Board of Aldermen
4. Buncombe County Board of Commissioners (two representatives)
5. Canton Board of Aldermen
6. Clyde Board of Aldermen
7. Flat Rock Village Council
8. Fletcher Town Council
9. Haywood County Board of Commissioners (two representatives)
10. Henderson County Board of Commissioners (two representatives)
11. Hendersonville City Council
12. Laurel Park Town Council
13. Maggie Valley Board of Aldermen
14. Montreat Board of Commissioners
15. Waynesville Board of Aldermen
16. Weaverville Town Council
17. Woodfin Board of Aldermen
18. Mill's River Town Council
19. North Carolina Board of Transportation – Division 13
20. North Carolina Board of Transportation – Division 14
21. Federal Highway Administration (Advisory and non-voting)

Each of the above member agencies may also appoint an alternate, in accordance with the rules contained within the French Broad River MPO Bylaws. If alternates attend meetings where the

primary representative is present, only the primary representative(s) shall be counted for voting purposes as specified in the Bylaws.

At the invitation of the Transportation Advisory Committee, other local, regional, State, or Federal agencies impacting transportation within the Planning Area may serve as non-voting members of the TAC. A member of the staff of the Lead Planning Agency will serve as secretary to the Committee.

I. Transportation Advisory Committee Duties.

The duties and responsibilities of the Transportation Advisory Committee are as follows:

1. Establishment of **goals and objectives** for the transportation planning process reflective of and responsive to comprehensive plans for growth and development in the Planning Area adopted by Boards of General Purpose Local Government.
2. Review and approval of a **Prospectus** for transportation planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process.
3. Review and approval of changes to the **Urbanized Area Boundary** and the **Metropolitan Area Boundary** as well as review and recommend changes to the **National Highway System** in conformance with Federal regulations.
4. Review and approval of the transportation **Unified Planning Work Program**.
5. Review and approval of the **Long Range Transportation Plan** and adoption of the **Comprehensive Transportation Plan** pursuant to G.S. 136-66.2. The Comprehensive Transportation Plan shall be mutually adopted by the Transportation Advisory Committee and the State of North Carolina.
6. Development and Approval of the **Metropolitan Transportation Improvement Program (MTIP)**. The MTIP shall be developed according to the special provisions outlined in Section K below.
7. Development developing a bi-annual **Priority Needs List** for transportation improvements. The Transportation Advisory Committee will develop the Priority Needs List according to the provisions set forth in section L below.
8. Review and approval related **air quality planning** in conformance with Federal regulations.
9. Distribution of funds distributed directly to MPO's under the provisions of TEA 21 and any subsequent re-authorization of TEA-21.
10. Development, approval, and implementation of a **Public Involvement Policy**.
11. Development and approval of committee **Bylaws** governing operating policies and procedures. Through the Bylaws, the Transportation Advisory Committee may establish

subcommittees and may delegate duties of planning and analysis to these subcommittees as outlined in Section M. below.

12. **Self-Certification** of the Long-Range Planning Process.
13. Any other duties identified as necessary to further facilitate the transportation planning process.

J. Transportation Advisory Committee Voting Policy

1. A simple majority shall determine all issues except as provided in 2, 3, and 4 below.
2. When any project is on a road that does not carry an Interstate route designation or is not located on a limited-access highway, the jurisdictions “directly impacted” by the project can vote by consensus to remove the project from the Metropolitan Transportation Improvement Program (MTIP). “Directly impacted” jurisdictions shall include Municipalities where any portion of the project is within the Municipality’s corporate limits or sphere of influence, and shall include Counties where any portion of the project is within the County’s unincorporated area and outside the sphere of influence of any municipality. Sphere of influence shall include extraterritorial jurisdiction, Joint Planning Area, pending annexation areas, or areas covered by a Resolution of Intent to annex.
3. When any project does not carry an Interstate route designation, or is not located on a limited-access highway, general design and location of the project will be determined only with the consent of the jurisdictions directly impacted by the project. Consent shall be required from directly impacted jurisdictions as defined in Section 2 above. Further, the MTIP shall be developed according to the special provisions outlined in Section K below.
4. When any project is on an Interstate route or limited-access highway, project-specific design decisions will be decided using a weighted vote.
 - ✍ Directly impacted jurisdictions will be given the total number of votes in the second column of the following table.
 - ✍ Jurisdictions not directly impacted will be given the total number of votes in the first column of the following table.
 - ✍ For projects that are outside the corporate limits, but within the sphere of influence of a municipality, both the municipality and the County shall receive the total number of votes in the third column of the following table.

<u>Jurisdiction</u>	Total Votes per Jurisdiction		
	No Direct Impact	Direct Impact	ETJ/JPA Only
Asheville	4	10	8
Biltmore Forest	2	6	6
Black Mountain	2	8	6
Buncombe County	4	10	8
Canton	2	6	6
Clyde	2	6	6
Flat Rock	2	6	6

Fletcher	2	6	6
Haywood County	4	10	8
Henderson County	4	10	8
Hendersonville	2	8	6
Laurel Park	2	6	6
Maggie Valley	2	6	6
Mills River	2	6	6
Montreat	2	6	6
Waynesville	2	8	6
Weaverville	2	6	6
Woodfin	2	6	6
NC BOT – Division 13	2	N/A	N/A
NC BOT – Division 14	2	N/A	N/A

K. Metropolitan Transportation Improvement Program (MTIP) Development

The Metropolitan Transportation Improvement Program (MTIP) shall be adopted in accordance with adoption schedules for the State Transportation Improvement Program (STIP). The MTIP shall include all information typically contained in the STIP, including, but not limited to route number, project I.D. number, project limits, project description, proposed implementation schedule, funding source, and projected cost.

In addition, for the purpose of implementing its voting policies, the Transportation Advisory Committee shall develop a supplement to the MTIP containing descriptions of project design. Design information for a particular project will be included in the supplement on an as needed basis at the request of “directly impacted” jurisdictions. For roadway projects, the information may include the preferred alignment, the number of lanes, the inclusion of medians, and the extent and location of pedestrian and bicycle facilities. Other design information will be included in the supplement as needed to establish the general parameters of project design. The supplement shall serve as a planning document to guide MTIP development, and shall be amended as needed. Generally, project design information will not be included in the supplement until a project has completed the NEPA process, design public hearing process, or any other required public involvement process.

L. Priority Needs List Development

It is the intent of this provision to provide for cooperative decision-making regarding regional priorities, and maximum local influence regarding local priorities. The Transportation Advisory Committee shall develop a Priority Needs List for transportation improvements on a bi-annual basis, or more often as needed. Through the Prospectus and the Bylaws, the Transportation Advisory Committee shall establish a process for developing the Priority Needs List. This process will be based on the following guiding principles:

1. Regionally significant priorities will be developed by the Transportation Advisory Committee. Regional priorities include, but are not limited to Interstate projects, new major roadways, and regionally significant widening projects, regional transit systems.
2. Local priorities will be determined through local input. These local priorities should be developed by county-level subcommittees or advisory groups established by the

Transportation Advisory Committee. Local priorities include, but are not limited to roadway upgrades, intersection improvements, congestion management improvements, safety improvements, bicycle and pedestrian improvements, and transit improvements.

M. Transportation Advisory Committee Subcommittees

The Transportation Advisory Committee may establish subcommittees and advisory groups through its bylaws. The subcommittees may consist of existing members of the Transportation Advisory Committee, the Technical Coordinating Committee, and other officials and citizens as appropriate to achieve the objectives of the subcommittee. Subcommittees may include, but are not limited to the following groups: Henderson County Transportation Committee, Haywood County Committee, Buncombe County Transportation Committee, Bicycle and Pedestrian Transportation Committee, Transit Committee, Citizen Transportation Committee. Further, the French Broad River Transportation Advisory Committee shall allow these groups to establish their own bylaws, meeting schedule, and elected officers. The purpose of the subcommittees will be to provide analysis and recommendations to the Transportation Advisory Committee.

N. Transit Planning and Programming

The French Broad River MPO will coordinate transit planning and programming within the Metropolitan Area Boundary. The duties and responsibilities of the Transportation Advisory Committee with regard to transit planning and programming are as follows:

1. Establish policies for distribution of federal mass transit funds that are provided directly to the Metropolitan Planning Organization. These policies will be reviewed and approved annually by the Transportation Advisory Committee
2. Develop and approve a Priority Needs List for transit improvements.
3. Program transit improvements in the Metropolitan Transportation Improvement Program (MTIP).

In developing transit plans, programs, and funding formulas, the Transportation Advisory Committee shall consider the following factors: federal mass transit funding formulas, State Maintenance Assistance Program formulas, population served by the transit system, ridership, and present and future demand for transit service.

O. Technical Coordinating Committee Established

A Technical Coordinating Committee, hereinafter referred to as the TCC, shall be established with the responsibility of general review, guidance, and coordination of the transportation planning process for the Planning Area and with the responsibility for making recommendations to the respective local and State governmental agencies and the Transportation Advisory Committee regarding any necessary actions relating to the continuing transportation planning process. The TCC shall be responsible for development, review, and recommendation for approval of goals and objectives, the Prospectus, Unified Planning Work Program (UPWP), Urbanized Area Boundary, Metropolitan Area Boundary, National Highway System, Long Range Transportation Plan, Comprehensive Transportation Plan, Metropolitan Transportation

Improvement Program (MTIP), Priority Needs List (PNL), air quality planning, distribution of directly allocated funds, public involvement, and any other duties identified as necessary to facilitate the transportation planning process.

Membership of the TCC shall include technical representation from all local and State governmental agencies directly related to and concerned with the transportation planning process for the planning area. Membership to the TCC may be altered on the basis of a majority vote of its membership, provided that any party may appeal decisions regarding TCC membership changes to the Transportation Advisory Committee. The initial TCC voting membership shall include, but not be limited to the following:

1. City of Asheville
2. Town of Biltmore Forest
3. Town of Black Mountain
4. Buncombe County
5. Town of Canton
6. Town of Clyde
7. Village of Flat Rock
8. Town of Fletcher
9. Haywood County
10. Henderson County
11. City of Hendersonville
12. Town of Laurel Park
13. Town of Maggie Valley
14. Town of Mills River
15. Town of Montreat
16. Town of Waynesville
17. Town of Weaverville
18. Town of Woodfin
19. NCDOT, Division 13
20. NCDOT, Division 14
21. NCDOT, Statewide Planning Branch
22. City of Asheville Transit Services
23. State Bicycle Committee Representative, Division 13 and 14
24. Land of Sky Rural Planning Organization

Representatives of the municipalities and counties shall be the chief administrative officers (town manager or county manager) or their designees. Other entities may be represented by their chief administrative officer or their designee. Each TCC member shall have one vote. Through its bylaws, the TCC may designate other local agencies, organizations, or individuals as voting and non-voting members of the TCC. Such agencies and individuals would include (but not be limited to):

1. Land of Sky Regional Council
2. Region A COG – Southwestern Commission
3. Local Government Planning Directors
4. Local Government Traffic Engineers
5. Transit Service Providers
6. Rural Transportation Providers
7. WNC Air Quality Agency

8. Community Transportation Advisory Board
9. Quality Forward
10. Asheville Regional Airport
11. NCDOT, Transit Division
12. NCDOT, District Office
13. NCDOT, Regional Traffic Engineer
14. Additional representatives, NCDOT Division Office
15. Additional representatives, NCDOT Statewide Planning
16. MPO Staff
17. Federal Highway Administration Staff

The TCC shall operate as determined by its adopted bylaws. Any agency not listed above which wishes representation on the TCC may request such representation for consideration under the TCC adopted bylaws.

SECTION II. It is further agreed that the subscribing agencies will have the following responsibilities:

The Municipalities and the Counties

The Municipalities and the Counties will assist in the transportation planning process by providing assistance, data and inventories in accordance with the Prospectus. The Municipalities and the Counties shall be responsible for any zoning and subdivision approvals that are impacted by the adopted Transportation Plan. Additionally, the City of Asheville will serve as the Lead Planning Agency for the French Broad River Metropolitan Planning Organization.

North Carolina Department of Transportation

The Department will assist in the transportation planning process by providing planning assistance, data and inventories in accordance with the Prospectus.

SECTION III. Subscribing agencies to this Memorandum of Understanding may terminate their participation in the French Broad River MPO by giving 30 days written notice to the Transportation Advisory Committee Chair prior to the date of termination. When annexation occurs and member municipality boundaries extend beyond the adopted urbanized area boundary, the new boundaries will automatically become part of the urbanized area. If any party should terminate participation, this memorandum of understanding shall remain in force and the French Broad MPO shall continue to operate as long as 75% or more of population within the Metropolitan Area Boundary is represented by the remaining members.

SECTION IV. In witness whereof, the parties of this Memorandum of Understanding have been authorized by appropriate officials to sign the same, the City of Asheville by its Mayor, the Town of Biltmore Forest by its Mayor, the Town of Black Mountain by its Mayor, Buncombe County by the Chair of its Board of Commissioners, the Town of Canton by its Mayor, the Town of Clyde by its Mayor, the Village of Flat Rock by its Mayor, the Town of Fletcher by its Mayor, Haywood County by the Chair of its Board of Commissioners, Henderson County by the Chair of its Board of Commissioners, the City of Hendersonville by its Mayor, the Town of Laurel Park by its Mayor, the Town of Maggie Valley by its Mayor, The town of Montreat by its Mayor, the Town of Waynesville by its Mayor, the Town of Weaverville by its Mayor, and the Town of Woodfin by its Mayor, and by the Secretary of Transportation on behalf of the Governor of the State of North Carolina and North Carolina Department of Transportation as of the 1st day of July, 2003.