

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: August 16, 2006

SUBJECT: Henderson County Public Transit

ATTACHMENTS:

1. Project Update with Attachments
2. Public Transit Service Provider Contract with Cover Memo
3. Authorization Resolution with Cover Memo

SUMMARY OF REQUEST:

1. *Project Update with Attachments.* Included within this packet is a brief memorandum from Planning staff to update the Board of Commissioners on the current status of the process to establish a Federal urbanized area public transit grant (U.S.C. 5307) compliant fixed-route transit and complementary paratransit system for Henderson County. A lot of progress has been made on this project in the past couple of months; however, there is still work to be done to finish implementing the new transit system. No action necessary on this item.
2. *Public Transit Service Provider Contract with Cover Memo.* The attached Public Transit Service Provider Contract has been drafted by Brian Piascik (Henderson County's transit consultant), with assistance from and County staff, to establish Western Carolina Community Action (WCCA) as the service provider for Federal urbanized area public transit grant (U.S.C. 5307) compliant fixed-route and paratransit services in Henderson County. The contract has been reviewed and approved by Mr. David White (Executive Director) of WCCA, and is now ready for review and possible approval by the Board of Commissioners.
3. *Authorization Resolution with Cover Memo.* Once adopted, the attached resolution will confirm Henderson County's willingness to participate in the Federal urbanized area transit grant program and will establish the Planning Director as the principal contact for the Federal Transit Administration (FTA). Adoption of this resolution is required by the FTA and must be completed prior to the establishment of a grant management account with FTA.

COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:

I recommend that the Board of Commissioners take action to approve the proposed Public Transit Service Provider Contract and adopt the proposed Authorization Resolution as drafted.

HENDERSON COUNTY
Planning Department

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

MEMORANDUM

TO: Henderson County Board of Commissioners

FROM: Anthony Starr, Planning Director
Anthony Prinz, Planner II

DATE: August 3, 2006

SUBJECT: Project Update – Henderson County U.S.C. 5307 Transit System

On March 15, 2006 Henderson County, with consultation services provided by Brian Piascik of the URS Corporation, released for bidding, a request for proposal for the provision of U.S.C. § 5307 compliant public transit and complementary paratransit services in Henderson County. As of the April 3, 2006 deadline only one proposal from Western Carolina Community Action (WCCA) was submitted for consideration. Given the pending July 1, 2006 expiration date of WCCA's existing contract and the number of "loose ends" that needed to be resolved prior to the issuance of a U.S.C. § 5307 compliant contract, the County entered into a temporary agreement with WCCA to continue providing public transit and complementary paratransit services in Henderson County following the expiration date of their existing contract. Currently, the temporary agreement is in effect until Henderson County is able to finalize a U.S.C. § 5307 compliant contract with WCCA, who was informed on June 21, 2006 that they would be awarded the contract.

County staff, with assistance from Brian Piascik, is working toward implementation of a U.S.C. § 5307 compliant contract by achieving the following objectives:

1. *Establish Henderson County as an "Additional Recipient" of U.S.C. § 5307 grant funds.* County staff has contacted the Federal Transit Administration (FTA) in Atlanta, Georgia to begin this process. A letter from the County Attorney was recently mailed to Tajsha Lashore of the FTA to establish with them our eligibility to receive transit funds. The remaining action steps necessary to complete this objective include: (1) set up Henderson County's Transportation Electronic Award and Management (TEAM) account, and (2) become familiar with the funds request and reimbursement process. County Planning staff will be responsible for wrapping-up these action steps in the near future.
2. *Establish a distribution formula for the U.S.C. § 5307 grant funds between members of the French Broad River Metropolitan Planning Organization (FBRMPO).* Currently, Asheville City Transit receives all of the regional U.S.C. § 5307 grant funds and has the authority to determine how the funds are distributed. Until recently, the City of Asheville was the only jurisdiction within the region eligible to use such monies for public transit funding. However, with the establishment of Henderson County as an urbanized area by the 2000 Decennial Census, the County is now eligible to receive U.S.C. § 5307 funds for transit operating, capital, and planning expenses. County staff, FBRMPO staff, Asheville Transit staff, and Brian Piascik will all be working together to establish a sensible distribution formula to ensure that Henderson County receives an adequate share of the U.S.C. § 5307 funds.
3. *Apply to have capital transit funds added to the NCDOT Division 14, State Transportation Improvement Program (STIP).* Funding for capital transit improvements including vehicles,

operations facilities, equipment, and planning services must be added to the STIP for funding by the FTA and NCDOT. Planning staff is currently in the process of applying for such capital transit funds to be added to the STIP. (A summary table of capital transit requests and draft of the STIP pages is attached.) The County's application will be evaluated by the FBRMPO staff and Transportation Advisory Committee before being forwarded on to State Board of Transportation for inclusion in the regional STIP.

Most capital funds will be disseminated to Henderson County via an 80/10/10 match plan – eighty (80) percent from FTA, ten (10) percent from NCDOT, and ten (10) percent from County coffers. Capital improvement funds will be used to upgrade County facilities such as the Central Services fueling station and parking area, with minimal cost to the County government. In the near future, WCCA will be involved in capital planning and budgeting processes to establish long-term funding cycles for future capital needs. Such long-term funding cycles will then be incorporated into the County's upcoming capital improvement plan.

4. *Implement a U.S.C. § 5307 compliant contract with WCCA.* County staff provided WCCA with a copy of the final transit service provider contract on August 2, 2006. Since that time, the contract has been reviewed and signed by Mr. David White (Executive Director) of WCCA, and is now ready for review by the Board of Commissioners. If the transit service provider contract is approved by the Board of Commissioners, it would take the place of the temporary agreement that Henderson County currently holds with WCCA for transit services.

A lot of progress has been made on this project in the past few months and County staff is eager to continue moving forward to achieve all of the above-mentioned objectives and implement an effective U.S.C. § 5307 compliant public transit and complementary paratransit system. For your information, a draft financial plan for the U.S.C. § 5307 transit program is attached.

**Summary of Henderson County Capital Transit Requests for the North
Carolina Department of Transportation, State Transportation Improvement
Program - 2007-2018**

2007 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Transit Vehicles	\$ 225,000	3 Buses (\$75,000 each)
Paratransit Vehicle	\$ 55,000	1 Van (\$40-55,000 each)
Total	\$ 280,000	
Federal/State/County Match (83%/8%/9%)	\$ 232,400/22,400/25,200	
<i>Non-Rolling Stock Capital</i>		
Planning	\$ 45,000	Transportation Planner/Consultant
Total	\$ 45,000	
Federal/State/County Match (80%/10%/10%)	\$ 36,000/4,500/4,500	

2008 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Transit Vehicles	\$ 75,000	Buss Replacement (\$75,000)
Paratransit Vehicle	\$ 55,000	1 Van (\$40-55,000 each)
Total	\$ 130,000	
Federal/State/County Match (83%/8%/9%)	\$ 107,900/10,400/11,700	
<i>Non-Rolling Stock Capital</i>		
Planning	\$ 85,000	Transportation Planner/Consultant; Operations Analysis
Other	\$ 50,000	Maintenance, Expansion, and Upgrades for Bus Stops/Shelters
Total	\$ 135,000	
Federal/State/County Match (80%/10%/10%)	\$ 108,000/13,500/13,500	

2009 – TIP

Line Item	Total Requested Funds	Allocation
<i>Non-Rolling Stock Capital</i>		
Transfer Center Upgrades	\$ 30,000	Facility Assessment/Design
Planning	\$ 45,000	Transportation Planner/Consultant
Other	\$ 100,000	Improvements to Central Services Facility for Fueling Station and Parking Area
Total	\$ 175,000	
Federal/State/County Match (80%/10%/10%)	\$ 140,000/17,500/17,500	

2010 - TIP

Line Item	Total Requested Funds	Allocation
Transfer Center Upgrades	\$ 200,000	Facilities Upgrade/Construction
Planning	\$ 45,000	Transportation Planner/Consultant
Total	\$ 245,000	
Federal/State/County Match (80%/10%/10%)	\$ 196,000/24,500/24,500	

2011 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i> Transit Vehicles	\$ 90,000	1 Passenger Coach (\$90,000 each) – Replacement of one (1) bus purchased in 2007
Paratransit Vehicle	\$ 60,000	1 Van (\$60,000 each) - Replacement of one (1) van purchased in 2007
Total	\$ 150,000	
Federal/State/County Match (83%/8%/9%)	\$ 124,500/12,000/13,500	

Non-Rolling Stock Capital

Fleet Parking Facility Upgrades	\$ 30,000	Assessment/Design for expanded vehicle fleet storage
Planning	\$ 50,000	Transportation Planner/Consultant
Other	\$ 100,000	General improvement costs for Urbanized Area expansion from 2010 Census
Total	\$ 180,000	
Federal/State/County Match (80%/10%/10%)	\$ 144,000/18,000/18,000	

2012 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i> Transit Vehicles	\$ 90,000	1 Passenger Coach (\$90,000 each) – Replacement of one (1) bus purchased in 2007
Paratransit Vehicle	\$ 60,000	1 Van (\$60,000 each) – Replacement of one (1) van purchased in 2008
Total	\$ 150,000	
Federal/State/County Match (83%/8%/9%)	\$ 124,500/12,000/13,500	

Non-Rolling Stock Capital

Transfer Center Upgrades	\$ 150,000	Expand transit Center to accommodate expanded service
Planning	\$ 50,000	Transportation Planner/Consultant
Total	\$ 200,000	
Federal/State/County Match (80%/10%/10%)	\$160,000/20,000/20,000	

20013 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Transit Vehicles	\$ 400,000	Addition of two (2) (\$200,000 each) large buses
Paratransit Vehicle	\$ 60,000	Addition of one (1) van (\$60,000 each)
Total	\$ 460,000	
Federal/State/County Match (83%/8%/9%)	\$ 381,800/36,800/41,400	
<i>Non-Rolling Stock Capital</i>		
Planning	\$ 50,000	Transportation Planner/Consultant
Total	\$ 50,000	
Federal/State/County Match (80%/10%/10%)	\$ 40,000/5,000/5,000	

2014 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Transit Vehicles	\$ 200,000	Addition of one (1) (\$200,000 each) large bus
Total	\$ 200,000	
Federal/State/County Match (83%/8%/9%)	\$ 166,000/16,000/18,000	
<i>Non-Rolling Stock Capital</i>		
Planning	\$ 110,000	Transportation Planner/Consultant – New Operations Analysis
Other	\$ 75,000	General Capital Items
Total	\$ 185,000	
Federal/State/County Match (80%/10%/10%)	\$ 148,000/18,500/18,500	

2015 - TIP

Line Item	Total Requested Funds	Allocation
<i>Non-Rolling Stock Capital</i>		
Transfer Center Upgrades	\$ 40,000	Facility Assessment/Planning
Planning	\$ 55,000	Transportation Planner/Consultant
Other	\$ 75,000	General Capital Items
Total	\$ 170,000	
Federal/State/County Match (80%/10%/10%)	\$ 136,000/17,000/17,000	

2016 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Paratransit Vehicle	\$ 75,000	1 Van (\$75,000 each) - Replacement of one (1) van purchased in 2011
Total	\$ 75,000	
Federal/State/County Match (83%/8%/9%)	\$ 62,250/6,000/6,750	

<i>Non-Rolling Stock Capital</i>		
Transfer Center Upgrades	\$ 400,000	Upgrades to Transit Center
Planning	\$ 55,000	Transportation Planner/Consultant
Total	\$ 455,000	
Federal/State/County Match (80%/10%/10%)	\$ 364,000/45,500/45,500	

2017 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Paratransit Vehicle	\$ 75,000	1 Van (\$75,000 each) - Replacement of one (1) van purchased in 2011
Total	\$ 75,000	
Federal/State/County Match (83%/8%/9%)	\$ 62,250/6,000/6,750	

<i>Non-Rolling Stock Capital</i>		
Planning	\$ 55,000	Transportation Planner/Consultant
Total	\$ 55,000	
Federal/State/County Match (80%/10%/10%)	\$ 44,000/5,500/5,500	

2018 - TIP

Line Item	Total Requested Funds	Allocation
<i>Rolling Stock Capital</i>		
Transit Vehicles	\$ 500,000	2 Large Buses (\$250,000 each) – Replacement of two (2) bus purchased in 2013
Paratransit Vehicle	\$ 75,000	1 Van (\$75,000 each) - Replacement of one (1) van purchased in 2013
Total	\$ 575,000	
Federal/State/County Match (83%/8%/9%)	\$ 477,250/46,000/51,750	

<i>Non-Rolling Stock Capital</i>		
Planning	\$ 55,000	Transportation Planner/Consultant
Other	\$ 75,000	General Capital Items (Shelters, etc.)
Total	\$ 130,000	
Federal/State/County Match (80%/10%/10%)	\$ 104,000/13,000/13,000	

Draft Henderson County Transit Financial Plan FY2006-2018

Henderson County Expenses

Regional Allocation from FTA

Federal FY	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Asheville Region	\$ 1,556,058	\$ 1,621,282	\$ 1,760,012	\$ 1,872,860	\$ 1,966,503	\$ 2,064,828	\$ 2,168,070	\$ 2,276,473	\$ 2,276,473	\$ 2,276,473	\$ 2,276,473	\$ 2,276,473	\$ 2,276,473

FTA Funds Allocated to Henderson County

County/State FY	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Allocation	\$ 227,199	\$ 236,722	\$ 256,978	\$ 462,256	\$ 485,369	\$ 509,637	\$ 535,119	\$ 561,875	\$ 561,875	\$ 561,875	\$ 561,875	\$ 561,875	\$ 561,875

Transit Service Operation Budget

County FY	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Estimated Expense	-	\$ 442,524	\$ 458,012	\$ 474,043	\$ 497,745	\$ 831,234	\$ 860,327	\$ 890,439	\$ 921,604	\$ 953,860	\$ 987,245	\$ 1,021,799	\$ 1,057,562

Revenue Sources for Operation Budget

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Transit Farebox	-	\$ 35,402	\$ 36,641	\$ 37,923	\$ 39,820	\$ 66,499	\$ 68,826	\$ 71,235	\$ 73,728	\$ 76,309	\$ 78,980	\$ 81,744	\$ 84,605
STCP	-	\$ 108,455	\$ 113,727	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
S 5307*	-	\$ 95,573	\$ 98,446	\$ 139,558	\$ 146,536	\$ 244,715	\$ 253,280	\$ 262,145	\$ 271,320	\$ 280,816	\$ 290,645	\$ 300,818	\$ 311,346
SMAP	-	\$ 101,547	\$ 104,599	\$ 148,281	\$ 155,695	\$ 260,010	\$ 269,110	\$ 278,529	\$ 288,278	\$ 298,367	\$ 308,810	\$ 319,619	\$ 330,805
Municipalities	-	\$ 29,347	\$ 30,229	\$ 42,853	\$ 44,996	\$ 75,143	\$ 77,773	\$ 80,495	\$ 83,312	\$ 86,228	\$ 89,246	\$ 92,370	\$ 95,603
County	-	\$ 72,200	\$ 74,370	\$ 105,427	\$ 110,699	\$ 184,867	\$ 191,337	\$ 198,034	\$ 204,965	\$ 212,139	\$ 219,564	\$ 227,249	\$ 235,203
Total	-	\$ 442,524	\$ 458,012	\$ 474,043	\$ 497,745	\$ 831,234	\$ 860,327	\$ 890,439	\$ 921,604	\$ 953,860	\$ 987,245	\$ 1,021,799	\$ 1,057,562
Net Balance - S 5307	-	\$ 368,348	\$ 258,480	\$ 365,277	\$ 564,110	\$ 633,032	\$ 646,371	\$ 661,600	\$ 530,355	\$ 497,414	\$ 632,644	\$ 467,451	\$ 611,730

Capital Improvements

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<i>Non-Rolling StockCapital</i>													
Transfer Center Upgrades	-	\$ -	\$ -	\$ 30,000	\$ 200,000	\$ 30,000	\$ 150,000	\$ -	\$ -	\$ 40,000	\$ 400,000	\$ -	\$ -
Planning	-	\$ 45,000	\$ 85,000	\$ 45,000	\$ 45,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 110,000	\$ 55,000	\$ 55,000	\$ 55,000	\$ 55,000
Other**	-	\$ -	\$ 50,000	\$ 100,000	\$ -	\$ 100,000	\$ -	\$ -	\$ 75,000	\$ 75,000	\$ -	\$ -	\$ 75,000
Estimated Expense	-	\$ 45,000	\$ 135,000	\$ 175,000	\$ 245,000	\$ 180,000	\$ 200,000	\$ 50,000	\$ 185,000	\$ 170,000	\$ 455,000	\$ 55,000	\$ 130,000
County Match	-	\$ 4,500	\$ 13,500	\$ 17,500	\$ 24,500	\$ 18,000	\$ 20,000	\$ 5,000	\$ 18,500	\$ 17,000	\$ 45,500	\$ 5,500	\$ 13,000
State Match	-	\$ 4,500	\$ 13,500	\$ 17,500	\$ 24,500	\$ 18,000	\$ 20,000	\$ 5,000	\$ 18,500	\$ 17,000	\$ 45,500	\$ 5,500	\$ 13,000
S 5307*	-	\$ 36,000	\$ 108,000	\$ 140,000	\$ 196,000	\$ 144,000	\$ 160,000	\$ 40,000	\$ 148,000	\$ 136,000	\$ 364,000	\$ 44,000	\$ 104,000
<i>Rolling StockCapital</i>													
Transit Vehicles	-	\$ 225,000	\$ 75,000	\$ -	\$ -	\$ 90,000	\$ 90,000	\$ 400,000	\$ 200,000	\$ -	\$ -	\$ -	\$ 500,000
Partatransit Vehicles	-	\$ 55,000	\$ 55,000	\$ -	\$ -	\$ 60,000	\$ 60,000	\$ 60,000	\$ -	\$ -	\$ 75,000	\$ 75,000	\$ 75,000
Estimated Expense	-	\$ 280,000	\$ 130,000	\$ -	\$ -	\$ 150,000	\$ 150,000	\$ 460,000	\$ 200,000	\$ -	\$ 75,000	\$ 75,000	\$ 575,000
County Match	-	\$ 25,200	\$ 11,700	\$ -	\$ -	\$ 13,500	\$ 13,500	\$ 41,400	\$ 18,000	\$ -	\$ 6,750	\$ 6,750	\$ 51,750
State Match	-	\$ 22,400	\$ 10,400	\$ -	\$ -	\$ 12,000	\$ 12,000	\$ 36,800	\$ 16,000	\$ -	\$ 6,000	\$ 6,000	\$ 46,000
S 5307*	-	\$ 232,400	\$ 107,900	\$ -	\$ -	\$ 124,500	\$ 124,500	\$ 381,800	\$ 166,000	\$ -	\$ 62,250	\$ 62,250	\$ 477,250
Remaining Balance - S5307	-	\$ 99,948	\$ 42,580	\$ 225,277	\$ 368,110	\$ 364,532	\$ 361,871	\$ 239,800	\$ 216,355	\$ 361,414	\$ 206,394	\$ 361,201	\$ 30,480

County Annual Outlay

County/State FY	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
County Expense	-	\$ 101,900	\$ 99,570	\$ 122,927	\$ 135,199	\$ 216,367	\$ 224,837	\$ 244,434	\$ 241,465	\$ 229,139	\$ 271,814	\$ 239,499	\$ 299,953
Δ	-	N/A	\$ (2,330)	\$ 23,358	\$ 12,271	\$ 81,168	\$ 8,470	\$ 19,597	\$ (2,969)	\$ (12,326)	\$ 42,675	\$ (32,315)	\$ 60,454
Percent Δ	-	N/A	-2.3%	23.5%	10.0%	60.0%	3.9%	8.7%	-1.2%	-5.1%	18.6%	-11.9%	25.2%

STCP - State Transportation Capital Program
 SMAP - State Maintenance Assistance Program (NCDOT)
 *Up to 40% of the S 5307 funds can be used for operational expenditures of the transit and paratransit system.
 **Includes necessary improvements to County Central Services fueling station and bus stops/shelters.

HENDERSON COUNTY
Planning Department

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

MEMORANDUM

TO: Henderson County Board of Commissioners

FROM: Anthony Starr, Planning Director
Anthony Prinz, Planner II

DATE: August 3, 2006

SUBJECT: Public Transit Service Provider Contract for Henderson County

Attached to this document is a proposed transit service provider contract that was drafted by Brian Piascik (Henderson County's transit consultant), with the assistance of County staff, for the provision of Federal urbanized area transit grant (U.S.C. 5307) compliant fixed-route transit and paratransit services in Henderson County. The proposed contract has been reviewed and approved by Mr. David White (Executive Director) of WCCA, and is now ready to be reviewed by the Board of Commissioners. When a contract is approved by the Board of Commissioners and signed by the County Manager, it will take the place of the temporary service agreement that Henderson County currently holds with WCCA for public transit services. The contract would be made retroactively effective since July 1, 2006 to align the duration and renewal schedule with the County's budget cycle.

Key provisions of the proposed contract include:

1. WCCA will continue to operate as an independent non-profit organization under contract with Henderson County for the provision of U.S.C. 5307 compliant fixed-route transit and complementary paratransit services. Henderson County will be responsible for designating a County employee to oversee the implementation of this contract agreement by WCCA.
2. WCCA will be responsible for providing public transit services for a period of three (3) years beginning July 1, 2006 and ending June 30, 2009. The County will retain the option of renewing the contract for up to five (5) additional one year periods.
3. Henderson County will reimburse Western Carolina Community Action (WCCA) for services provided on a cost per revenue hour basis rather than per accrued expense. Pages 4 and 5 outline the payment schedule for the duration of the proposed contract as well as other applicable payment provisions.
4. The schedules, fares, and routes of all fixed-route transit services will remain as they currently exist. Paratransit services and fees will also remain as they currently exist. WCCA is required by the contract to operate public transit services Monday through Friday (excluding some select holidays, see page 33 of the contract) between the hours of 6:30 A.M. and 6:30 P.M..
5. Henderson County intends to purchase three (3) revenue vehicles (buses), meeting the requirements outlined on pages 35 and 36 of the contract, for use by WCCA within the first three (3) months of the contract. The three (3) vehicles will be purchased utilizing Federal and State funds with the Henderson County being responsible for only nine (9) percent of the total cost. The County will retain ownership of all vehicles purchased for public transit services. WCCA will be responsible for insuring the vehicles and providing all necessary maintenance and repairs.
6. Henderson County will retain the ability to inspect any and all records, equipment, facilities, and services related to work performed under this contract. WCCA is required to maintain and provide access to the County for review, all books, records, documents, accounting procedures and

practices and other evidence sufficient to reflect properly all direct and indirect costs claimed to be associated with work performed under this contract. All County audits and inspections will be conducted during normal hours of operation.

7. Specific duties and responsibilities of the County are outlined on page 36 of the contract.
8. Specific duties and responsibilities of WCCA are outlined on page 37 of the contract.

Planning staff has reviewed the contract and feels that it establishes a sensitive agreement between Henderson County and WCCA for the provision of Federal urbanized area transit grant (U.S.C. 5307) compliant fixed-route transit and ADA compliant paratransit services in Henderson County. Staff recommends approval of the proposed contract.

CONTRACT

Contract, contained herein, is for the management and provision of fixed route transit and ADA compliant complementary paratransit services to the urbanized area of Henderson County, North Carolina.

This agreement is executed by Western Carolina Community Action, Inc., and the County of Henderson, this the _____ day of August, 2006.

WESTERN CAROLINA COMMUNITY ACTION, INC. COUNTY OF HENDERSON

By: _____ By: _____
DAVID WHITE STEVE WYATT
Executive Director County Manager

[PRE-AUDIT CERTIFICATE STAMP]

DEFINITIONS

The following terms used in this CONTRACT will have the meaning set forth below:

- a. The term "Henderson County" or the "COUNTY" means Henderson County, North Carolina, (which acts through its Board of Commissioners).
- b. The term "BOARD OF COMMISSIONERS" means the governing body of Henderson County, North Carolina.
- c. The term Henderson County Transit means the title for the Henderson County Transportation System designated in Resolution 2001-79 passed by the Henderson County Commissioners August 2001.
- d. The term "SERVICES" means Transit System Service and Support (also "transit system") as described in this RFP and workmanship and material furnished or used in performing the services.
- e. The term "PROPOSER" means any firm or entity responding to this Request for Proposals.
- f. The term "PROPOSAL" means the qualifications, services, support and prices offered by the PROPOSER.
- g. The term "SUCCESSFUL PROPOSER" means the firm or entity to be selected to provide mass transit services to Henderson County.
- h. The term "CONTRACT" means the agreement that the COUNTY will have with the successful PROPOSER for the provision of transit services to Henderson County.
- i. The term "SERVICE PROVIDER" means the firm or entity awarded the CONTRACT for providing transit system service and support to the COUNTY.

COMPLETE CONTRACT

This CONTRACT and the attachments and documents incorporated herein constitute the complete and exclusive statement of the terms of the agreement between the COUNTY and the SERVICE PROVIDER, and it supersedes all prior representations, understanding and communications. The invalidity in whole or in part of any provision of this CONTRACT shall not affect the validity of other provisions. The COUNTY's failure to insist in one or more instances upon the performance of any term or terms of this CONTRACT shall not be construed as a waiver or relinquishment of the COUNTY's right to such performance by SERVICE PROVIDER.

INDEPENDENT SERVICE PROVIDER STATUS

1. Under the CONTRACT, the SERVICE PROVIDER shall be an independent SERVICE PROVIDER and not an agent of the COUNTY or the Board of Directors. The SERVICE

PROVIDER shall be fully responsible for all acts and omissions of its employees, subcontractors and their suppliers, and specifically shall be responsible for sufficient supervision and inspection to ensure compliance in every respect with the CONTRACT requirements. There shall be no contractual relationship between any subcontractor or supplier and the COUNTY by virtue of the CONTRACT with the SERVICE PROVIDER. No provision of this CONTRACT shall be for the benefit of any party other than the COUNTY and the SERVICE PROVIDER.

The COUNTY, in consideration of the compensation provided to the SERVICE PROVIDER, shall also be the lessee of all equipment used pursuant to this RFP (other than vehicles or other equipment purchased by the COUNTY and the COUNTY). The SERVICE PROVIDER shall be entirely responsible and liable for the operation and maintenance of such equipment whether purchased or leased by the COUNTY AND the COUNTY. The SERVICE PROVIDER, and not the COUNTY, is the employer of all the transit employees and the SERVICE PROVIDER is responsible for their wages, hours, benefits, worker's compensation, social security, and all other incidents of employment.

KEY PERSONNEL

The SERVICE PROVIDER's General Manager and Maintenance Manager are considered to be essential to the work being performed under this CONTRACT. Prior to diverting any of these individuals to other programs, the SERVICE PROVIDER should notify the COUNTY reasonably in advance and submit justification and proposed substitutions in sufficient detail to permit evaluation of the impact on the PROJECT. SERVICE PROVIDER shall make no diversion without the written consent of the COUNTY's Transit Director or his/her designee.

SUBCONTRACTING

The SERVICE PROVIDER shall not assign, award, or delegate any of its rights, duties or obligations under this CONTRACT to a subcontractor without prior written approval of the COUNTY. The COUNTY shall not unreasonably withhold, condition or delay such approval. The COUNTY's approval of any assignment, award or delegation shall not release the SERVICE PROVIDER of an obligation under the CONTRACT. The SERVICE PROVIDER shall be fully responsible for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by the SERVICE PROVIDER, as the SERVICE PROVIDER is fully responsible for the acts and omissions of persons directly employed by it.

Nothing contained in this CONTRACT shall create any contractual relation between any subcontractor and the COUNTY.

CONTRACT DURATION

The SERVICE PROVIDER shall provide all necessary resources to provide for service as called for in this RFP and contract, and as called for in any subsequent order(s) for the period of three (3) years of revenue service beginning July 1, 2006 and ending June 30, 2009. The COUNTY shall retain the option of renewing the contract for up to five (5) additional one year periods; such an option to be exercised by giving the SERVICE

PROVIDER at least one hundred and twenty (120) days prior written notice and depending on funds availability. The SERVICE PROVIDER's original price proposal in the solicitation, offer, and award will remain in effect in the event the COUNTY exercises any options. Any contract renewals shall include all relevant provision of this solicitation.

SCOPE OF WORK

The COUNTY hereby engages the SERVICE PROVIDER and the SERVICE PROVIDER agrees to perform the SERVICES, hereinafter described in connection with the management and operation of Henderson County Transit.

Subject only to the general policies and directions of the COUNTY with regard to Henderson County Transit management and operations, and to the provisions and requirements of this CONTRACT, SERVICE PROVIDER shall, upon receiving the COUNTY's notice to proceed, do all things necessary to manage, operate, and maintain Henderson County Transit including all services outlined in Attachment A.

PAYMENT TO THE SERVICE PROVIDER

The COUNTY shall make payments to the SERVICE PROVIDER within forty-five days (45) after receipt of invoices and all required monthly reports. The monthly payments shall be based on service performed in the preceding month.

The terms of this Section (Section 3.8) and the terms of the entire CONTRACT are intended to **supersede** all provisions of the North Carolina Prompt Pay Act, O.C.G.A. § 13-11-1 through 13-11-11.

Payment for Fixed Route and Paratransit Services

Payment for the fixed route and paratransit services shall be based on the following price schedule. This schedule can be updated with a letter and new price schedule as agreed upon by both the COUNTY and SERVICE PROVIDER.

	2007 (Partial)	2008	2009
Transit Revenue Hours	7,620	9,144	9,144
Cost/Rev. Hr. Transit	\$40.28	\$42.05	\$44.15
Paratransit Revenue Hours	3810	4572	4572
Cost/Rev. Hr. Paratransit	\$22.71	\$23.84	\$25.03

Vehicle Revenue Hours will be calculated based on the actual time that each revenue vehicle is in service and available to passengers.

For Fixed Route service, Vehicle Revenue Hours are defined as the scheduled hours of service as set forth in Section 4.1, or any revisions thereto, plus or minus adjustments for schedule deviations, trippers, or other service level changes as specifically authorized by the COUNTY under Section 4. For Paratransit service, Vehicle Revenue Hours are defined as the time from when a vehicle makes its first pick up through the time of its last drop off.

For the Fixed Route and Paratransit services, Vehicle Revenue Hours shall specifically exclude deadhead hours, including time for travel to and from storage facilities, changing routes, downtime for roadcalls, road tests, fueling, vehicle inspections, driver training, driver lunches and breaks, and missed trips. The Revenue Hours operated shall be directly traceable by driver trip sheets and the Daily Operating Reports.

The fixed hourly rates specified hereinabove shall compensate SERVICE PROVIDER for all fixed hour rate cost elements detailed in Section 4.1 attached hereto and made a part hereof by this reference.

For the Fixed Route and Paratransit Services, these rates are applicable to service greater or less than fifteen percent (15%) of the existing level of service. If the COUNTY increases or decreases the amount of service by an amount greater or less than fifteen percent (15%) of the existing service level, new rates for that service will be negotiated for the remainder of that portion of the CONTRACT. All service revisions will be based upon the revenue hours at the start of the CONTRACT, and will be calculated separately for each service. Revenue hours will be the only variable affecting the cost, and not mileage, or peak fleet requirements.

Payment for Special Events Services

For the Special Event Services, as outlined in Section 4.1 payment shall be the same as the cost of the Fixed Route Services, as outlined in Attachment IX. Vehicle Revenue Hours are defined as the time from when a vehicle is requested to arrive at its first pick-up for the event through the time of its last drop-off.

Payment for Operations and Maintenance Facility

Payment for costs associated with the transition and start-up of the new service shall be based on the price schedule outlined in Attachment XI (Mobilization Costs).

OPERATING REVENUES

All operating revenues collected by SERVICE PROVIDER are the property of the COUNTY. For the purposes of this CONTRACT, operating revenues shall include but not necessarily be limited to farebox revenue, ticket and pass sales revenue, and advertising revenues. SERVICE PROVIDER shall be responsible for handling farebox receipts, and pass and ticket sales revenues in the manner discussed in Section 4.3.8, and as necessary for the COUNTY to meet the requirements of State and Federal funding sources.

TERMINATION

1. Termination for Convenience: the COUNTY may terminate this CONTRACT at any time for any reason upon ninety (90) days written notice to the SERVICE PROVIDER. Any notice to terminate this CONTRACT shall be given by certified mail, return receipt requested. The effective date of termination shall be ninety (90) days from the date of receipt as noted on the return receipt.
2. Termination for Cause: Either party may terminate this CONTRACT should either party default in the performance of any of the terms, covenants, obligations, or conditions of this CONTRACT and the non-defaulting party may proceed by following any of the options listed below in the Default section.

A written request by the COUNTY to the SERVICE PROVIDER, to reduce the level of fixed route service shall not be construed as a partial termination of the contract; unless the weekday scheduled revenue hours for fixed route service is reduced below seventy-five percent (75%) of the initial level.

DEFAULT

Default shall mean a failure to comply with any of the provisions of this CONTRACT or any applicable County, State, or Federal laws, which do not fall within the force majeure provisions of this CONTRACT.

- a. In the event of default under this CONTRACT, non-defaulting party shall send written notice of specific instances of failure to fulfill any of its obligations under the CONTRACT and, within ten (10) days of the date of notice is sent, such failure has not cured or otherwise remedied to the satisfaction of the non-defaulting party during this ten-day period, then the non-defaulting party may, at its election, terminate the CONTRACT in whole or in part, for default. Non-defaulting party may give written notice of termination; or
- b. In the event of default under this CONTRACT, the non-defaulting party shall have the rights, but not the obligation, to cure such default and to charge the defaulting party for the costs of curing the default against any sums due or which become due to the defaulting party under this CONTRACT. The non-defaulting party shall use the most economically reasonable method of curing any such defaults; or
- c. The SERVICE PROVIDER will be in default should the SERVICE PROVIDER become insolvent or unable to pay its debts as they mature or make an assignment for the benefit of creditors or should a bankruptcy petition under the Bankruptcy Code of 1978, as amended, be brought by or against the SERVICE PROVIDER; or
- d. The SERVICE PROVIDER will be in default should a judgment or order for payment of money no longer subject to appeal or which judgment or order, in the opinion of the COUNTY, would be fruitless to appeal, be entered against the SERVICE PROVIDER by any court or other tribunal which exceeds \$100,000 in amount and (a) such judgment or order shall continue undischarged or unpaid for a period of 30 days and (b) an insurer acceptable to the COUNTY has not acknowledged that such judgment or order is fully covered by a relevant policy of insurance and (c) or the

COUNTY is otherwise reasonably satisfied that the SERVICE PROVIDER would be able to satisfy the judgment without affecting its ability to provide those services.

FORCE MAJURE

Any delay or failure of performance by either party shall not constitute a default or give rise to any claims for damages if and to the extent the failure is primarily caused by any act, event or condition reasonably beyond that party's control and adversely affecting its ability to perform its obligations including but not limited to:

- a. Acts of God, lightening, earthquake, fire, epidemic, landslide, drought, hurricane, tornado, storm, explosion, failure of utilities, flood, nuclear radiation, or any other act by third parties that interferes with operations.
- b. Condemnation or other taking by any government body, change in any applicable law, rule, regulation, ordinance, or permit condition not in effect as of the date hereof.
- c. Any order, judgment, action or determination of any federal or state court, administrative agency or government body.

NOTICE REQUIREMENT

All notices and correspondences required under this CONTRACT shall be in writing and shall be delivered personally, prepaid registered or certified mail, return receipt requested or overnight receipted delivery service.

2. All notices and correspondences to the COUNTY shall be addressed as follows:

Anthony Starr
Henderson County
100 North King Street
Hendersonville, North Carolina 28791
FAX: (828) 698-6014

Copies shall also be provided to the COUNTY General Counsel and the COUNTY Transit Director.

All notices and correspondences to the SERVICE PROVIDER shall be addressed as indicated in the PROPOSAL or as thereafter designated in writing.

INDEMNIFICATION

3. To the fullest extent permitted by law, the SERVICE PROVIDER shall indemnify and hold harmless the COUNTY, its Board of Directors, and Henderson County, its Board of Commissioners, in both their official and individual capacities, the COUNTY and the COUNTY's employees, consultants, agents, servants, successors, heirs, executors and administrators, from and against any and all claims or future claims, actions, causes of actions, demands, obligations, liens, rights, damages, judgments, costs, loss of services, expenses, including but not limited to attorney's fees, and compensation of any nature

whatsoever arising out of or relating to any and all claims, suits, liens, demands, obligations, actions, procedures or causes of action of every kind and character caused in whole or in part by negligent acts or omissions of the SERVICE PROVIDER, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts arise directly or indirectly out of the performance of the CONTRACT and/or the operation of the transit system. This indemnity provision includes any action or claim resulting from the following:

- a. Accident, injury, death, loss, or damage, to any person or property, or other economic loss or claimed liability to the extent caused by, resulting from, connected with or arising out of the negligence, acts, or omissions of the SERVICE PROVIDER, its officers, directors, employees, agents or subcontractors;
 - b. Violation of any statute, ordinance, administrative order, rule, regulation or order of any governmental body or any order or decree of any court or other tribunal applicable to the operation of the transit system contemplated herein including, but not limited to, all state and federal environmental, motor vehicle, Title VI of the Civil Rights Act, Title VII of the Civil Rights Act, Disadvantaged Business Enterprises (DBE), American with Disabilities Act, labor laws and regulations and other laws and regulations actions undertaken by the SERVICE PROVIDER in the CONTRACT; and
 - c. Infringement of any patent, trademark, or intellectual property right, or violation of any state or federal patent, trademark, or intellectual property law; provided, however, that SERVICE PROVIDER's indemnity shall not cover any claims or losses arising from or related to the alleged infringement of any patent, trademark, copyright or similar property right regarding any logo, mark, insignia, advertising, or marketing materials provided to SERVICE PROVIDER by the COUNTY or the COUNTY.
2. The COUNTY shall give the SERVICE PROVIDER timely notice of, and shall forward to it every demand, notice, summons or other process received with respect to any claim or legal proceedings within the purview hereof, but the failure of the COUNTY to give such notice shall not affect such right to indemnification unless such failure was a result of the COUNTY's gross negligence, fraud or shameful misconduct and such failure is materially prejudicial to SERVICE PROVIDER. The COUNTY agrees to reasonably cooperate with the SERVICE PROVIDER in connection with the defense of any such claim.
 3. The foregoing indemnities shall be in addition to, and not in derogation of, the indemnity set forth in Exhibit A – Clauses Incorporated by Reference hereof.

LAWS GOVERNING AND VENUE OF ACTIONS

The CONTRACT shall be governed by, and construed in accordance with, the laws of the State of North Carolina. The courts of North Carolina, allocated in Henderson County, North Carolina, and, as applicable, the United States District Court for the Northern District of North Carolina shall have exclusive jurisdiction to hear any claim between the SERVICE PROVIDER and the COUNTY in connection with the

CONTRACT or the operation of the transit system, and SERVICE PROVIDER submits to the jurisdiction and venue of such courts.

EMERGENCIES

In the event of a declared civil disorder or natural catastrophe, the SERVICE PROVIDER shall direct the employees to operate as ordered by federal, state, and/or the County civil authorities. Compensation shall be based on actual hours of service performed.

MEETINGS

Upon request of the COUNTY, the SERVICE PROVIDER shall, at its own expense, attend citizens' meetings to provide information concerning the transit system. The General Manager, representing the SERVICE PROVIDER, shall attend at a minimum, biweekly meetings with the COUNTY Transit staff at times and locations to be determined.

REMOVAL OF EMPLOYEES

Promptly upon the written demand of the COUNTY's Project Coordinator, SERVICE PROVIDER shall remove from activities associated with this CONTRACT any employees whom the COUNTY at its sole discretion considers unsuitable for such work.

APPROVAL OF PROCEDURES

The plans submitted in response to this Request for Proposals are hereby incorporated into this CONTRACT by reference. These plans, together with the requirements in the Request for Proposals, shall constitute the SERVICE PROVIDER's operating procedures, policies and practices, and, upon reasonable written request from the COUNTY, the SERVICE PROVIDER shall amend such procedures, policies and practices in accordance therewith. The SERVICE PROVIDER shall request the COUNTY's prior written approval for any change to these plans. Such procedures, policies and practices shall be deemed to include all operators' and other SERVICE PROVIDER's employees' training and orientation and SERVICE PROVIDER's employee performance codes and disciplinary procedures, dress codes, run cuts, timetables and other performance-related procedures or policies.

COMPLIANCE WITH LAW

The SERVICE PROVIDER shall comply with all applicable federal, state and local laws and regulations relating directly or indirectly to providing transit services. All vehicles and other equipment shall be maintained and operated at all times in compliance with all applicable rules, regulations and codes governing the operation of vehicles of public conveyance of the COUNTY and its municipalities, and those of the State of North Carolina and the United States.

The COUNTY shall comply with all federal and state laws and regulations applicable to the COUNTY and related directly or indirectly to providing transit services.

ADVERTISING

At this time, the COUNTY does not permit paid interior or exterior advertising on Henderson County Transit vehicles. However, the COUNTY shall have the right to determine interior and exterior advertising policies on revenue vehicles. All revenue received from advertising on vehicles shall be paid to the COUNTY. The SERVICE PROVIDER shall be responsible for the installation of advertising in the vehicles.

ERISA

4. The SERVICE PROVIDER shall comply with the provisions of the Employee Retirement Income Security Act of 1974, as amended with respect to each of its employee benefit plans. The SERVICE PROVIDER shall supply the COUNTY with such information concerning the status of each of the SERVICE PROVIDER's employee benefit plans, as the COUNTY shall reasonably request.

LICENSES, PERMITS, AND FILING FEES

The SERVICE PROVIDER is solely responsible for obtaining any licenses or other authorization required by law to perform the services required in this CONTRACT. The cost of all licenses and permits necessary to operate each vehicle and other equipment under all such applicable laws and regulation shall be the responsibility of the SERVICE PROVIDER. These permits and licenses shall include, but not limited to, all necessary North Carolina motor vehicle licenses and certificates.

The SERVICE PROVIDER shall pay all filing fees and legal fees involved in submitting route, schedule, and rate changes.

The SERVICE PROVIDER shall pay all federal, state and local taxes imposed on the SERVICE PROVIDER by reason of the ownership or leasing of any vehicle, equipment, inventory or operation of the transit system.

PROHIBITED USES

Unless expressly authorized in writing by the COUNTY, the SERVICE PROVIDER shall not use any vehicle or other equipment, which is part of the Henderson County Transit service other than in connection with the services, required to be performed under the CONTRACT. The SERVICE PROVIDER shall not use any such vehicle or other equipment for any private charters or any purpose other than as may be specifically permitted by the COUNTY and in the COUNTY's sole discretion and under such terms as the COUNTY elects.

RISK OF LOSS OR DAMAGE

The SERVICE PROVIDER shall be responsible for the vehicles, equipment and supplies used in the performance of the services called for under the CONTRACT and shall be responsible for all loss or damage with respect to any such vehicles, equipment and

supplies, excepting those losses or damages due to either intentional acts of the COUNTY or the COUNTY's gross negligence.

The SERVICE PROVIDER will be responsible for all losses and/or damages to buildings, structures, and facilities, whether owned or leased by the COUNTY, used in the performance of this CONTRACT, which are due to the negligence of the SERVICE PROVIDER, its agents, representatives, employees, or subcontractors.

INSURANCE

5. The SERVICE PROVIDER shall procure and maintain, or cause others to procure and maintain, for the duration of the CONTRACT insurance against claims for injuries to persons or damages to property, or theft which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, employees, subcontractors or authorized the COUNTY transit staff, including but not limited to the procuring of insurance against claims for injuries to persons or damages to property including claims that may arise at the COUNTY owned or leased transfer centers, park and ride lots or vehicle stops, or theft, or property damage of any and all transit vehicles and equipment either owned by the COUNTY or the COUNTY, or leased by the COUNTY or the COUNTY, or otherwise used by the SERVICE PROVIDER or the COUNTY in connection with the operation of the transit system and the services described in the CONTRACT. The cost of such insurance shall be identifiable as separate items and included in the SERVICE PROVIDER's Cost Proposal:

Minimum Limits of Insurance

SERVICE PROVIDER shall maintain limits no less than:

- a. General Liability including Garage Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Subject to Policy aggregate limit of \$2,000,000.
- b. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury, personal injury and property damage including passenger liability.
- c. Umbrella Liability: \$25,000,000 per occurrence for bodily injury, personal injury, and property damage in excess of limits required under "a" and "b" above.
- d. Workers' Compensation and Employers Liability: Workers Compensation limits as required by the Labor Code of the State of North Carolina and Employers Liability limits of \$1,000,000 per accident.
- e. All Risk Fire and Extended Coverage for full replacement cost on all equipment, tools, supplies, and contents used in the performance of services under the CONTRACT. The COUNTY and the COUNTY will both be included as Loss Payees in this coverage for Henderson County Transit – owned equipment, tools, supplies, and contents.

- f. Automobile Physical Damage coverage, including Collision coverage and Comprehensive coverage, each equal to full replacement value of all vehicles, including the fixed route vehicles, paratransit vans, and non revenue vehicles operated by SERVICE PROVIDER's employees. Deductible levels shall be determined by the SERVICE PROVIDER based upon SERVICE PROVIDER'S ability to cover deductible payments in the event of a claim. The SERVICE PROVIDER shall be responsible for all damages falling below the deductible. No blanket or per location limit should apply to this coverage under \$10,000,000. The COUNTY and the COUNTY will be included as a Loss Payee in this coverage.
- g. Employment Practice Liability: \$1,000,000 each occurrence and aggregate.

Deductibles and Self-Insured Retention

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. At the option of the COUNTY, either, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the deductibles or self-insured retentions as respects the COUNTY, the Board of Directors, their officials, agents, employees, and volunteers; or the SERVICE PROVIDER shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability, Automobile Liability, and Umbrella Liability Coverage
 - a. the COUNTY, its officials, agents, employees, and volunteers shall be covered as insureds as respects liability arising out of activities performed by or on behalf of the SERVICE PROVIDER; products and completed operations of the SERVICE PROVIDER; premises owned, occupied or used by the SERVICE PROVIDER; or vehicles owned, leased, hired or borrowed by the SERVICE PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officials, agents, employees, and volunteers.
 - b. The SERVICE PROVIDER's insurance coverage shall be primary insurance as respects the COUNTY, its officials, agents, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officials, agents, employees, and volunteers shall be in excess of the SERVICE PROVIDER's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees and volunteers.

d. The SERVICE PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the COUNTY, its officers, officials, employees and volunteers for losses arising from work performed by the SERVICE PROVIDER for the COUNTY.

3. All Coverage

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after sixty (60) days prior written notice by certified mail, return receipt requested, has been given to the COUNTY.

Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A VII or acceptable to the COUNTY.

Verification of Coverage

The SERVICE PROVIDER shall furnish the COUNTY with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The policies, certificates and endorsements are to be in a form acceptable to the COUNTY and are to be received and approved by the COUNTY 30 days after award or commencement of any mobilization activity, whichever is earlier. The SERVICE PROVIDER is to commence no activity with regard to performance of the CONTRACT until the required insurance has been obtained. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, at any time.

Subcontractors

The SERVICE PROVIDER shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

Rights Reserved

The COUNTY reserves the right to reject any and all insurance proposals, to waive any informality in PROPOSALS and, unless otherwise specified by the PROPOSER, to accept any item in the PROPOSAL. The COUNTY, solely at its option, may purchase any or all of the insurance coverage required in these specifications directly to cover its own and the SERVICE PROVIDER's interests, in lieu of the SERVICE PROVIDER providing such coverage. In such cases, the

COUNTY would delete applicable insurance coverage and cost(s) from its evaluation of PROPOSALS.

Claims Information and Loss Runs

The SERVICE PROVIDER shall make available to the COUNTY, through its records or the records of their insurer, information regarding a specific claim. Any loss run information available from the SERVICE PROVIDER or their insurer will be made available to the COUNTY upon their request.

LABOR DISPUTES

If the SERVICE PROVIDER has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this CONTRACT, the SERVICE PROVIDER immediately shall give notice, including all relevant information, to the COUNTY Project Coordinator.

MINIMUM VEHICLE AVAILABILITY

The SERVICE PROVIDER shall provide a number of vehicles that equal to that of the peak service requirement for both the fixed route and paratransit service in operable condition for revenue service in peak periods unless otherwise directed by the COUNTY. No vehicle shall be inoperable for a period longer than 5 business days unless by express written permission by the COUNTY.

CONFIDENTIALITY

Any and all reports, information or data of whatever nature provided to, or prepared, generated or assembled by the SERVICE PROVIDER in connection with the performance of the CONTRACT shall not be made available to any individual or organization outside the SERVICE PROVIDER without the prior written approval of the COUNTY, unless such is required by a court process. SERVICE PROVIDER shall promptly notify the COUNTY of any request for such information in a court proceeding.

EXAMINATION AND RETENTION OF RECORDS

SERVICE PROVIDER shall maintain all books, records, documents, accounting ledgers, data bases, and similar materials relating to work performed for the COUNTY under this CONTRACT on file for at least three (3) years following the date of final payment to the SERVICE PROVIDER by the COUNTY. All records stored on a computer database must of a format compatible with the COUNTY's. Any duly authorized representative(s) of the COUNTY shall have access to such records for the purpose of inspection, audit, and copying at reasonable times, during SERVICE PROVIDER's usual and customary business hours. SERVICE PROVIDER shall provide proper facilities to the COUNTY representative(s) for such access and inspection. Further, any duly authorized representative(s) of the COUNTY shall be permitted to observe and inspect any or all of SERVICE PROVIDER's facilities and activities during SERVICE PROVIDER's usual and customary business hours for the purposes of evaluating and judging the nature and

extent of SERVICE PROVIDER's compliance with the provision of this CONTRACT. In such instances, the COUNTY representative(s) shall not interfere with or disrupt such activities.

Section 4.3.9 outlines the reports that must be submitted to the COUNTY and their timing.

The SERVICE PROVIDER shall maintain, and the COUNTY and its representatives shall have the right to examine, all books, records, documents, accounting procedures and practices and other evidence sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of the CONTRACT. The materials described above as well as any relevant database and computer tapes or disks containing such information shall be made available at the COUNTY office of the SERVICE PROVIDER at all reasonable times for inspection, audit, and reproduction during the term of the CONTRACT, and for three years from the final date of settlement or payment under the CONTRACT.

THE COUNTY AND SERVICE PROVIDER SUPPLIED PROPERTY

The title to capital items provided by the COUNTY shall remain with the COUNTY. The title to capital items provided by the COUNTY shall remain with the COUNTY. The SERVICE PROVIDER shall be required to maintain such items utilizing manufacturers' recommended maintenance standards, at a minimum, or those standards provided by the COUNTY, at the COUNTY's sole discretion. Furthermore, the SERVICE PROVIDER shall maintain adequate property control records of all the COUNTY-furnished property in accordance with sound industry practice and as approved by the COUNTY.

The COUNTY shall have the option, upon the expiration or termination of the CONTRACT, to purchase all or any part of non-revenue equipment not already purchased by the COUNTY and used by the SERVICE PROVIDER in the performance of the work specified in the CONTRACT at a price equal to that portion of the original cost of the equipment which has not yet been amortized as of the date the CONTRACT expires or is terminated. Amortization shall be deemed to be made in accordance with generally accepted accounting principles.

SEVERABILITY OF PROVISIONS

Any provision of the CONTRACT which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions of the CONTRACT, or affecting the validity or enforceability of such provisions in any other jurisdiction.

TURNOVER PROCEDURE

The COUNTY has established a Turnover Procedure for return of Henderson County Transit vehicles and equipment at end of CONTRACT. This Turnover procedure shall be implemented toward the end of the current CONTRACT term and prior to the commencement of the new CONTRACT. At the COUNTY's option, a Turnover

Inspection may be implemented with or without a change in SERVICE PROVIDER. **Attachment A** outlines the procedures that are to be followed during the turnover period.

PERFORMANCE STANDARDS

The SERVICE PROVIDER will perform all transit services required by the CONTRACT according to the performance standards set forth in the Scope of Work in Section 4. The SERVICE PROVIDER's plans and procedures, submitted with the PROPOSAL, shall incorporate actions necessary to provide service according to these standards. The performance standards shall apply to the Fixed Route, Paratransit, and the Special Events services.

The COUNTY has developed these standards with which the SERVICE PROVIDER is expected to comply to insure that Henderson County Transit services, employee performance and vehicles meet the COUNTY standards. The COUNTY has established specific performance standards related to the following:

Vehicle Maintenance Standards

Proper maintenance directly affects operating costs and is closely related to the COUNTY's operating performance standards. The COUNTY maintenance requirements do not refer solely to the task of performing normal preventive maintenance tasks on a specified schedule, but rather that the task is done well and that the operation of the vehicle and all equipment on board the vehicle is in fact operable and reliable when in-service. The SERVICE PROVIDER is responsible for performing the following maintenance on a vehicle by vehicle basis (fixed route and paratransit vehicles):

- a. Completing all preventive maintenance inspections within ten percent (10%) of the scheduled interval.
- b. Maintaining the heating systems. The heating systems must be fully operable from November 1 to March 1.
- c. Maintaining the air conditioning systems. The air conditioning system must be fully operable from March 1 to November 1.
- d. Repairing major vehicle body damage (interior or exterior) within twenty-one (21) days of occurrence.
- e. Repairing minor vehicle body damage (interior or exterior) such as scratches or damaged decals within thirty (30) days of occurrence;
- f. Replacing or repairing seat damage within forty-eight (48) hours of occurrence; and,
- g. Repairing ADA required equipment within forty-eight (48) hours of occurrence.
- h. Ensuring that all vehicles placed in revenue service meet safety standards.

The specific requirements are detailed in Attachment A.

Operating Standards

The SERVICE PROVIDER shall make every effort to cover scheduled service. The SERVICE PROVIDER is responsible for complying with the following requirements:

The following performance requirements apply to the Fixed Route Vehicle Operations:

- a. Maintaining on-time performance within zero (0) minutes early (100%) and five (5) minutes late of scheduled times (90%). Vehicles leaving the transfer center late due to wait time for another vehicle with a passenger desiring a transfer will not be considered late).
- b. Completing scheduled trips in their entirety.
- c. Operating routes in accordance with the established routes (operating according to the correct route, serving all designated stops).

The following performance requirements are used in defining operating requirements for Paratransit vehicle services:

- a. Achieving a level of on-time performance equaling or exceeding ninety five percent (95%) of pick-ups within sixty (60) minutes of the scheduled pick-up time.
- b. Notifying applicants about their eligibility for paratransit service within twenty-one (21) days of receipt of their application.

Vehicle Cleanliness

SERVICE PROVIDER shall maintain Henderson County Transit vehicles in a clean and neat condition at all times. The SERVICE PROVIDER is responsible for the following:

- a. Daily cleaning of the interior of the vehicles
- b. Weekly cleaning (or as needed) of the exterior of the vehicles
- c. Major detailed interior cleaning every fourteen (14) days
- d. Quarterly upholstery cleaning

ADA Compliance

SERVICE PROVIDER shall meet the ADA requirements. The SERVICE PROVIDER is responsible for the following:

- a. The use of mobility devices to board passengers;
- b. Properly boarding passengers who are required to stand on the wheelchair lift platform to be lifted into the vehicle;
- c. Properly securing wheelchair passengers in the wheelchair tie-down positions;
- d. Making the required announcements of stops;

Safety Requirements

The SERVICE PROVIDER is responsible for complying with all of the following:

Reporting all passenger or vehicle accidents to the COUNTY promptly within two (2) hour of occurrence and following up with required detailed written accident report within three (3) to five (5) days.

Reporting

Submitting required monthly reports and documentation as outlined in Attachment A within ten (10) working days of the end of the month.

Customer Service

Completing investigation and follow-up response on customer complaints within seven (7) working days of complaint receipt.

FEDERAL REGULATIONS AND REQUIREMENTS

General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Act, as amended. References include, but are not limited to, the Master Agreement FTA MA (11), dated October 1, 2004; FTA Circular 4220.1E, dated June 19, 2003; "Best Practices Procurement Manual", updated March 13, 1999 with revisions through July, 2002; 49 CFR Part 18 (State and Local Governments) and 49 CFR Part 19 (Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) and any subsequent amendments or revisions thereto.

THE FOLLOWING MAY BE USED SYNONYMOUSLY:

**“BIDDER”, “CONTRACTOR” and “SERVICE PROVIDER”
“COUNTY”, “PURCHASER” AND “OWNER”**

Federal Changes

Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Notification of Federal Participation

In the announcement of any third party contract award for goods or services (including construction services) having an aggregate value of \$500,000 or more, the Purchaser agrees to specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express the amount of that Federal assistance as a percentage of the total cost of that third party contract (Public Law 102-141).

Conflict of Interest

No employee, officer, board member, or agent of the Owner shall participate in the selection, award, or administration of a contract supported by Federal Transit Administration (FTA) funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for

influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The requisite "Lobbying Certification" is included as ATTACHMENT B and was executed as a part of SERVICE PROVIDER'S proposal.

Civil Rights

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

a. **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

b. **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against

present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- c. **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq., the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:
- i. U.S. DOT regulations "Transportation Services for Individuals with disabilities (ADA)" 49 C.F.R. Part 37;
 - ii. U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
 - iii. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F. R. Part 38;
 - iv. U.S. DOJ regulations "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
 - v. U.S. DOJ regulations "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities." 28 C.F.R. Part 36;
 - vi. U.S. GSA regulations "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
 - vii. U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
 - viii. U.S. Federal Communications Commission regulations "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 49 C.F.R. Part 64, Subpart F;
 - ix. U.S. Architectural and Transportation Barriers Compliance Board regulations, "Electronic and Information Technology Accessibility Standards." 36 C.F.R. Part 1194;
 - x. FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609; and
 - xi. Any implementing requirement FTA may issue.
- d. **Access to Services for Persons with Limited English Proficiency.** The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 et seq., January 22, 2001.

- e. **Environmental Justice.** The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.
 - f. **Other Nondiscrimination Statutes.** The Contractor agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to this Contract.
- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Disadvantaged Business Enterprises

The Federal Fiscal Year goal has been set for the grantee of subgrantee in an attempt to match projected procurements with available qualified disadvantaged businesses. The goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established as set forth by the Department of Transportation Regulations 49 C.F.R. Part 26, January 29, 1999, and authorized by:

- (1) Titles I, III, V and VI of ISTEA, Pub. L. 102-240, or
- (2) Federal transit laws in Title 49, U.S. Code, or
- (3) Federal transit laws in Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178. amended by Section 106(c) of the Surface Transportation Assistance Act of 1987, and is considered pertinent to any contract resulting from this request for proposal.

If a specific DBE goal is assigned to this contract, it will be clearly stated in the Special Specifications, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBE's in the work provided, (name of grantee) may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the Special Specifications, it will be understood that no specific goal is assigned to this contract.

- a. **Policy** - It is the policy of the Department of Transportation and (name of grantee) that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of Contract financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Contract. The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical

handicap in the award and performance of subcontracts. The grantee or sub-grantee shall promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of procurement activities is encouraged.

- b. **DBE obligation** - The Contractor and its subcontractors agree to ensure that disadvantaged businesses have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 as amended, to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.
- c. Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBE's in the work provided, the grantee or sub-grantee may declare the contractor non-complaint and in breach of contract.
- d. The Contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with grantee or sub-grantee DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of grantee or sub-grantee and will be submitted to grantee or sub-grantee upon request.
- e. The grantee or sub-grantee will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:
 - i. - Identification of qualified DBE
 - ii. - Available listing of Minority Assistance Agencies
 - iii. - Holding bid conferences to emphasize requirements

Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Sect. 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal Assistance provided by FTA.

Clean Water

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sect. 1251 et seq. The Contractor agrees to report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Environmental Protection

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended 42 U.S.C. subsection 4321 et seq. in accordance with Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994, FTA statutory requirements on environmental matters at 49 U.S.C. section 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 et seq. and joint FHWA FTA regulations, "environmental Impact and Related procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; and when promulgated, FHWA/FTA joint regulations, "NEPA and Related Procedures for Transportation Decisionmaking, Protection of Public Parks, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 1420 and 49 C.F.R. Part 623.

Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Sect. 6321 et seq.

Fly America

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Debarment and Suspensions

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49

CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the (procuring agency). If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the (procuring agency), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Termination or Cancellation of Contract

The Owner (Grant Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Owner's or Government's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Owner to pay the Contractor. If the Contractor has any property in its possession belonging to the Owner, the Contractor will account for the same, and dispose of it in the manner the Owner directs. A 30-day notice of termination shall be required.

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

Breach of Contract

If the Contractor fails to make delivery of the equipment, supplies, or services within the specified terms of the contract, or fails to perform within the provisions of the contract, the contract may be terminated by reason of default or breach. A written notice of default or breach of contract shall be presented to the Contractor within three (3) working days of such failure. The Contractor will only be paid the contract price for equipment, supplies, or services delivered and accepted in accordance with the requirements set forth in the contract.

If it is determined that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Owner, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

The Owner in its sole discretion may, in the case of breach of contract, allow the Contractor a specified period of time in which to correct the defect. In such case, the notice of termination will state the time period in which the correction is permitted and other appropriate conditions.

If Contractor fails to remedy to the Owner's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within twenty (20) days after written notice from the Owner setting forth the nature of said breach or default, the Owner shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the Owner from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Resolution of Disputes

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Owner. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the authorized representative of the Owner. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of the Owner shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the Owner, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Owner and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Owner is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Owner, Architect or

Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Protest Procedures

To ensure that protests are received and processed effectively the Purchaser shall provide written bid protest procedures upon request. In all instances information regarding the protest shall be disclosed to the N.C. Department of Transportation (NCDOT). All protest requests and decisions must be in writing. A protester must exhaust all administrative remedies with the Purchaser before pursuing remedies through the NCDOT. Reviews of protests by the NCDOT will be limited to the Purchaser's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to the NCDOT must be received by the Department within three (3) working days of the date the protester knew or should have known of the violation. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation. Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities.

No Federal Government Obligations to Third Parties

The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

False or Fraudulent Statements and Claims

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities

in connection with this Project. Accordingly, by executing the Grant Agreement or Cooperative Agreement, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project covered by the Grant Agreement or Cooperative Agreement. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.

- (2) The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, or agreement with or to the Federal Government involving a project authorized by 49 U.S.C. chapter 53 or any other Federal statute, the Federal Government reserves the right to impose on the Recipient the penalties of 18 U.S.C. § 1001 or other applicable Federal statute to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records and Reports

The following access to records requirements apply to this Contract:

- (1) Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- (2) Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- (3) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital or other non-profit organization and is the FTA Recipient or a

sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

- (4) Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- (5) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- (7) FTA does not require the inclusion of these requirements in subcontracts.

Privacy

To the extent that the Contractor, or its subcontractors, if any, or any to their respective employees administer any system of records on behalf of the Federal Government, Contractor agrees to comply with, and assure the compliance of its subcontractors, if any, with the information restrictions and other applicable requirements of the Privacy Act of 1974, as amended, 5 U.S.C. Sect. 552, (the Privacy Act).

The Contractor shall obtain the express consent of the Department and the Federal Government before the Contractor, and any subcontractors, or any of their respective employees operate a system of records on behalf of the Federal Government. Failure to do so may result in termination of the Contract and civil and criminal penalties for violation of the Privacy Act.

Transit Employee Protective Agreements

The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.) These provisions are applicable to all contracts and subcontracts at every tier.

Transit Employee Protective Provisions

- (1) The Contractor agrees to the comply with applicable transit employee protective requirements as follows:
 - a. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.
 - b. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
 - c. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Non-urbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- (2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

Charter Service

The Charter Bus requirements apply to all Operational Service Contracts. The Charter Bus requirements flow down from FTA recipients and sub-recipients to first tier service contractors.

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

School Bus Operations

The School Bus requirements apply to all Operational Service Contracts. The School Bus requirements flow down from FTA recipients and sub-recipients to first tier service contractors.

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

Drug and Alcohol Testing

The Contractor agrees to comply with the revised FTA Drug and Alcohol Regulation, 49 CFR 655, dated August 9, 2001, and any subsequent revisions or amendments thereto, in establishing and implementing a drug use and alcohol misuse testing program. This program is to be strictly applied to all safety sensitive employees of the Contractor for pre-employment, random, reasonable suspicion, post-accident, and return-to-duty testing. This program takes effect immediately upon the execution of the contract.

State and Local Disclaimer

The Owner does not warrant or make any representation as to the accuracy or completeness of the information, text, graphics, links and other items contained in this document or on this server or any other server. Such materials have been compiled from a variety of sources and are subject to change without notice from the State and FTA.

Geographic Preference

Procurements shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in evaluation or award of bids or proposals, except where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws.

Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, and any subsequent amendments or revisions thereto, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any of the Purchaser's requests, which would cause the Purchaser to be in violation of the FTA terms and conditions.

Hold Harmless

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the Purchaser/Owner of this Purchase Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the 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 contractor or subcontractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor.

The Contractor represents and warrants that it shall make no claim of any kind or nature against the Purchaser or it's agents who are involved in the delivery or processing of contractor goods to the Purchaser. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

Seat Belt Usage

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402, the Contractor is encouraged to adopt on the job seat belt use policies and programs for its employees when operating company owned, rented, or personally-operated vehicles and include this provision in any third party subcontracts entered into under this project.

Attachment A - OPERATIONS AND MAINTENANCE OF HENDERSON COUNTY TRANSIT

SCOPE OF WORK

The following provides the Scope of Work for the Henderson County Transit Service Provider Contract.

Henderson County Transit SERVICE PLAN

History

Until now, Henderson County Transit has been operated under the NCDOT Rural Transportation Program. In 2004, Henderson County was informed by NCDOT that the County was now within the Asheville Urbanized Area and that its transit system needed to transition from a rural program to an urban program. A County Commission vote, directed County Staff to make the necessary arrangements to convert the system to an urban system that complied with the FTA Section 5307 Grant Program. One regulation requires that management of the system be procured competitively on a regular basis. This is the primary impetus behind the release of this Request for Proposals.

The fixed route system in Henderson County began in June of 2002 with the implementation of the Red and White routes. In July 2003, the blue was implemented as part of a statewide program encouraging intercity routes. All three routes still operate and are expected to continue to operate.

Operating Hours

Times vary on individual routes. In general, vehicles operate from Monday through Friday from 6:30 AM through 6:30 PM.

No service is operated on weekends or the following holidays:

- New Years Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

Fixed Route Service

Blue Route – Operates between Hendersonville and Fletcher via US 25. Service the airport where it connects with Asheville Transit Services.

Red and White Routes – Circulate throughout Hendersonville and the surrounding area, including Blue Ridge Community College and the shopping areas along US 64.

Complementary Paratransit Service

Presently, the complementary ADA paratransit service for the system is operated is incorporated into the County's 5311 Rural Transportation Program. For the purposes of this RFP, the Proposer should assume that the paratransit requirements for this contract will be to operate 3 vehicles from 6:30 AM to 6:30 PM. However, revenue hours are estimated at 18 hours per day.

Fare Structure

The following table summarizes the current Henderson County Transit fare structure.

Transit Fare Structure

FARE	NOTES	AMOUNT
Cash Fare	Correct change required	\$0.75
Children under 12	With Adult	Free
Paratransit service	ADA allowable escort/child free w/ same O, D	\$1.50
Twenty Trip Pass	10 Pass package	\$10.00
Monthly TransCard	First to last day of specific month	\$15.00

Transfer Policies

Free transfers are available between Henderson County Transit routes. Drivers issue paper transfers that are valid for one hour.

Ridership

Henderson County Transit ridership has grown steadily since service was implemented in 2003. Henderson County Transit transports about 7000 passengers per month.

Revenue Vehicles

Henderson County Transit Current Fixed Route Fleet Characteristics

Vehicle No.	Manufacturer	Year	Model	Fuel	Seats	Mileage (9-1-05)
1	Goshen/Ford	2001	E450	Gas	19	108,452
2	Goshen/Ford	2002	E450	Gas	16	127,724
3	Goshen/Ford	2002	E450	Gas	19	132,435
4	Goshen/Ford	2003	E450	Gas	19	58,263

Paratransit Vehicles

At this time the COUNTY is uncertain if there is sufficient time to procure new vehicles for both the fixed route and paratransit services. The County's intent is to procure from State contract, at least three new vehicles for use at the beginning of this contract. For the purposes of the cost proposal, the proposer should assume that the equipment in service today will be replaced within three months of the start-up of the service.

Following are selected specifications for the current North Carolina contract. The County intends to procure three (3) of the following vehicles in FY 2007 and an additional one (1) in FY 2008 for the provision of this contract..

25 FT. LTV - REINFORCED STEEL COMPOSITE BODY SPECIFICATION

Chassis:

2006 Ford E-450 cutaway chassis with 6.8L, 415 CID, V-10 gasoline engine; 14,050 GVWR; 96" overall width; 113" overall height; 296" length; 176" wheelbase; 4,600 lbs. front axle/ 9,450 lbs. rear axle/ 4:56 rear axle ratio; heavy duty shock absorbers; front coil and rear leaf springs; 5-speed automatic overdrive transmission; transmission oil cooler; radiator coolant recovery kit; 55 gallon fuel tank; trap door access to fuel tank; 2 drive shaft guards; dual hydraulic disc front and rear brakes; seven (7) LT225/75R16E all season 10 ply, radial tires with rims; 12 volt heavy duty electrical system; dual batteries, 650 CCA each;

170 amp Pentex or Leese-Neville alternator; two-way radio provision; color, number and function coded wiring; HELP bumpers with rear tow hooks; and backup alarm.

Body:

EIDorado Transtech 240 has exterior reinforced fiberglass plastic panels with a full steel roll cage; 3/4" marine grade floor with R.C.A. transit rubber flooring; color-keyed covering with white ribbed center aisle and yellow nosing on entry steps; manual two-leaf passenger entry door; emergency rear door exit; passenger transit type windows with dark tinted glass; 4 emergency windows; rustproofing; Specialty roof ventilator/emergency exit; 15"x 8" exterior mirrors

with convex; spring suspension, tilt steering and cruise control; inside semi-contoured bench seating; 60" pass. restraint lap belts; 2 seat belt extenders; appropriate instruments, gauges, and controls; hood release; OEM front (driver's area) heating and air conditioning; rear heater, 65,000 BTU's and rear a/c, 67,000 BTU's; non-slip coated stanchions and grab bars; oxygen tank brackets; 5 lb. fire extinguisher; 24-unit first-aid kit; web cutter; and warning reflectors.

- i. **Wheelchair lift** (meets all requirements of the American with Disabilities Act and the FMVSS):

Braun Vista NVL9171B, fully automatic side mounted wheelchair lift; lift platform is approximately 31.5"x 50"; minimum of 2 wheelchair stations upto 4 stations offered; Sur-Lok 4-point wheelchair tie-down and 3-point passenger restraint systems; flip seats provided at wheelchair stations; and backup manual override system.

Warranty:

Chassis - 3 year/36,000 mile Bumper to Bumper Warranty.

Body structure - 5 year/75,000 miles, exterior panels.

Air Conditioning (add on unit) - 24 months

Wheelchair lift - 5 year Limited Warranty

The COUNTY DUTIES AND RESPONSIBILITIES

The COUNTY has the following responsibilities and performs the following duties with respect to Henderson County Transit. To the extent reasonable and feasible, SERVICE PROVIDER shall assist the COUNTY in this regard.

System Planning and Administration

The COUNTY is responsible for all planning activities relative to Henderson County Transit vehicle routes, schedules, days and hours of operations, vehicle stop locations, location of vehicle stop improvements, preparation of planning documents, budgets, grant applications and related documentation, and other such activities relative to overall system administration.

Advertising, Media Inquiries, and Promotion

The COUNTY prepares, distributes, schedules, and pays for all advertising and promotional materials designed to inform Henderson County Transit vehicle service patrons of the COUNTY operations and to promote ridership. The COUNTY will respond to all media inquiries.

Revenue Vehicles

The COUNTY provides to SERVICE PROVIDER the revenue vehicles set forth on page 35. These vehicles shall be used only for activity directly related to the

transit system covered by this CONTRACT, unless otherwise authorized, in writing, by the COUNTY.

Schedules, Passes, Tickets

The COUNTY shall prepare, print, and provide to SERVICE PROVIDER all schedules, passes, tickets and like materials required for Henderson County Transit operations. SERVICE PROVIDER shall distribute and disseminate such materials in accordance with the provisions of this CONTRACT and any directions supplemental thereto provided by the COUNTY.

Fareboxes

The COUNTY will provide the electronic farebox system for the Henderson County Transit system, including the software and hardware.

Electronic Destination Signs

The COUNTY will provide the electronic destination signs for the new vehicles.

Vehicle Stop Improvements

The COUNTY shall purchase all signs, posts, benches, shelters and trash receptacles for Henderson County Transit vehicle stops. In addition, a vehicle shelter Contractor will be responsible for installing and maintaining vehicle shelters, benches and trash receptacles at select the COUNTY stops. This will be managed by the COUNTY.

Notification – Potential Interference with Henderson County Transit Operations

The COUNTY shall make a reasonable effort to notify SERVICE PROVIDER in advance of any road closures, detours, parades, or other such events which may interfere with Henderson County Transit operations or require deviations from established routes or schedules.

SERVICE PROVIDER DUTIES AND RESPONSIBILITIES

SERVICE PROVIDER shall perform the duties and accept the responsibilities set forth below in connection with the operation, maintenance and administration of the COUNTY.

Facilities and Equipment

SERVICE PROVIDER shall provide all facilities and equipment necessary to administer, operate and maintain the Henderson County Transit system, except for those facilities and equipment provided by the COUNTY as described in the previous section.

Operations and Maintenance Facility

SERVICE PROVIDER shall locate and provide a facility (ies) to support all administrative, operations and maintenance functions. It is understood that maintenance could be contracted out.

1. Administrative offices
2. Dispatch office
3. Employee break room
4. Safety/training room
5. Secure daily and overnight storage for all Henderson County Transit revenue vehicles
6. Revenue collection probes, vault, and count room
7. Records storage
8. Employee parking

The SERVICE PROVIDER's facility shall be in service for all hours during which the Henderson County Transit system operates. SERVICE PROVIDER shall allow the COUNTY and its agents access to its facility during all operating hours.

Radio Communications System

SERVICE PROVIDER shall provide a communications system for the Henderson County Transit system. Revenue vehicles and support vehicles will be equipped with communication equipment that enables them to maintain voice communications with the dispatch office. SERVICE PROVIDER is responsible for obtaining all licenses, equipment and installation.

Non-Revenue Vehicles

SERVICE PROVIDER shall be responsible for providing all non-revenue vehicles.

Computers and Software

SERVICE PROVIDER shall be responsible for providing all computer hardware, software and ancillary equipment necessary to support the Henderson County Transit system. Computer software should be compatible with the COUNTY's software system (Microsoft Office).

Operations

SERVICE PROVIDER shall provide the necessary management, technical and operating services for the operation of fixed route vehicle service, complementary paratransit service and Special Event services as specified by the COUNTY.

SERVICE PROVIDER shall assist and cooperate with the COUNTY in meeting the objectives of providing quality transportation services. SERVICE PROVIDER shall perform close liaison activities, coordination, and cooperation with the COUNTY on matters related to operations, monitoring, reporting and service performance measurements.

All facilities, equipment and services required in the operation and management of the COUNTY shall be furnished by SERVICE PROVIDER, unless specifically identified to be contributed by the COUNTY and/or the COUNTY.

Fixed Route Service

Using vehicles and equipment provided by the COUNTY, SERVICE PROVIDER will operate fixed route service as specified by the COUNTY. Fixed route vehicle service shall be operated in strict accordance with the operating days and hours, routes and schedules set forth in the Master Schedule, and shall provide such service in a safe, professional, and courteous manner. Fixed route vehicle service hours and the peak period vehicle requirement may vary over the term of the CONTRACT depending upon funding considerations.

SERVICE PROVIDER is authorized to deviate from established routes when necessary to avoid construction detours, and vehicles or other obstructions within the public right-of-way. All deviations are to be reported to the COUNTY within two (2) hours of the occurrence.

In the event that a fixed route vehicle service operates more than ten minutes behind schedule, SERVICE PROVIDER shall take all available steps to restore on-time performance. SERVICE PROVIDER shall establish procedures, subject to the COUNTY review and approval, to restore on-time performance. SERVICE PROVIDER is responsible for developing and distributing all schedule blocks and run cuts in conformity with the COUNTY's prior approval and specifications.

A dispatcher is required to be on duty in the fixed route vehicle service dispatch office at all times while vehicles are in service. The dispatcher will be required to monitor and respond to radio communications throughout operating hours and communicate with drivers, supervisors and maintenance personnel regarding operations, service, safety, and customer service issues. Detailed logs must be kept on all communications through an automated system to be provided by SERVICE PROVIDER.

Drivers, when requested by the COUNTY, will hand out notices to passengers or otherwise render assistance in the COUNTY's customer relations, promotion, monitoring, and supervisory functions.

Drivers will be required to assure that each patron pays the appropriate fare prior to being provided transportation service. Drivers will be required to honor special passes; collect, cancel and/or validate passes and tickets; and issue, collect, and validate transfers, as determined by the COUNTY. Drivers will verify cash fares deposited in farebox, but will not handle money. Drivers will record ridership counts by passenger category using electronic farebox system provided on the vehicle.

Drivers shall have available at all times during operation of any vehicle an accurate time piece set each day to conform to the National Bureau of

Standards Time. Drivers will be required to operate the wheelchair lift and kneeling features and assist in securing wheelchairs and scooters. Drivers will be required to secure bicycles on bicycle racks.

Drivers will be required to announce all ADA required stops through the p.a. system, as outlined by the COUNTY. Drivers must fill out a pre-trip and post-trip vehicle inspection as outlined in SERVICE PROVIDER's Operating Rules and Procedures, and State of North Carolina DOT requirements.

The SERVICE PROVIDER must provide a reliable monitoring program to insure a high performance capability in achieving consistent on-time performance. The SERVICE PROVIDER will be responsible, through routine daily monitoring of transit services, for accumulating data and assembling reports that assist in identifying equipment, schedule, or service level improvements.

The monitoring may from time to time include ridership statistics, passenger counts by trip or block, on-time performance and run-time data, on-board ride-checks and analysis of schedule, route or service problems. The SERVICE PROVIDER is responsible for adjusting transit monitoring personnel levels and utilizing existing personnel with other permanent duties as needed to assist in insuring a consistent high quality of service. The monitoring plan and procedures are subject to the COUNTY approval.

The COUNTY requires a strong Supervision Component that provides adequate street supervision at all times vehicles are operating. The SERVICE PROVIDER must implement a program that provides adequate geographic coverage throughout the transit system's service area with assurances that there will be a prompt response to accident investigation or service incidents. The COUNTY requires a quick response time to service incidents.

Paratransit Service

Using revenue vehicles provided by the COUNTY, the SERVICE PROVIDER will operate complementary paratransit service as specified by the COUNTY and in accordance with the guidelines of the Americans with Disabilities Act (1990). Complementary paratransit service will be provided to eligible riders whose travel begins and ends within ¾ mile of a Henderson County Transit fixed route and whose trip occurs during normal fixed route service hours. Complementary paratransit vehicle hours and the peak vehicle requirement may vary over the term of the CONTRACT depending on ridership demand and availability of vehicles.

The SERVICE PROVIDER will accept reservations Monday through Friday between 6:30 a.m. and 6:30 p.m. and have the capability to accept messages during non-service hours. Reservations may be made up to seven (7) days in advance of a desired trip and until 6:30 p.m. the preceding the day of travel. Same day reservations and service will not be

provided unless they can be accommodated within regular service. All reservations must be recorded on a "Service Request Form". The Service Request Form must be date/time stamped.

SERVICE PROVIDERS should provide an operation plan detailing how complementary paratransit service will be operated. Proposals must indicate how the following information will be captured and reported:

- Revenue hours
- Revenue miles
- Passenger trips
- Passenger trip information (e.g., passenger name, ID number, origin/destination address, pick-up/drop-off time, and mileage)
- No shows
- Missed trips (defined as any trip delivered after 60 minutes of the requested time)
- Trip denials

Paratransit training will include all requirements identified for fixed route operators. Paratransit operators must be CDL licensed. In addition to the training requirements identified for fixed route operators, the paratransit operators will be required to obtain sensitivity training related to transporting persons with disabilities. Training for paratransit drivers will emphasize ADA requirements, sensitivity, boarding and wheelchair tie-down skills, and will provide a higher awareness of the various disabilities eligible for complementary paratransit services.

Eligibility certification for complementary paratransit services will be the responsibility of the SERVICE PROVIDER. The COUNTY will furnish the successful SERVICE PROVIDER with a current list of eligible users on or before the start of revenue service. The SERVICE PROVIDER is responsible for verifying that users of the system are eligible for complementary paratransit service. Verification should include, but is not limited to, obtaining client identification number at the time of the request for service and checking the passenger's photo identification upon picking up the passenger. The COUNTY and the COUNTY reserve the right to expand or reduce the number of certified riders and to modify the method(s) and standard(s) used for the certification of riders.

Subscription service will be offered to Henderson County Transit customers having travel patterns to and/or from the same destinations, at the same hours, on the same days each week, at least three days per week, for at least six months consecutively. Subscription service is restricted to trips to and from work, medical or educational institutions only. Temporary and same day changes can not be made to subscription trips. Availability is on a first-come, first-serve basis.

The SERVICE PROVIDER must provide a Paratransit Plan to the COUNTY for its review and approval no less than 30 days prior to the start of revenue service. The Paratransit Plan will describe, in detail, how the SERVICE PROVIDER will receive and process reservations, process

eligibility applications, and provide service to eligible Henderson County Transit patrons.

Fuel

SERVICE PROVIDER will provide fuel for fixed route vehicles fuel for paratransit vehicles. SERVICE PROVIDER will be required to purchased fuel from the COUNTY and will comply with all operating, administrative, and accounting procedures established by the COUNTY with regard to fueling operations. The fuel price and payment arrangements will be governed by a separate contract.

Safety

SERVICE PROVIDER shall assume full responsibility for assuring that the safety of passengers, personnel, members of the public and the COUNTY's vehicles and equipment are maintained at the highest possible level throughout the term of this CONTRACT. In this regard, the SERVICE PROVIDER will develop and implement an ongoing comprehensive safety program covering all aspects of the system.

The Safety Program must meet, at a minimum, all applicable Federal, State, and local regulations. The Safety Program must be submitted and approved to the COUNTY one month prior to service startup.

The SERVICE PROVIDER will require all drivers, supervisors, dispatchers, mechanics, and managers to participate in the Safety Program. The following are to be included in the Safety Program.

Safety Reviews and Accident Prevention

The program will include provisions to regularly review all aspects of the operation to ensure that the service being provided meets the highest level of safety standards. This will include audits of vehicles and equipment, delivery of accident prevention programs, holding monthly safety meetings, and ensuring follow-up of findings.

Emergency Preparation

SERVICE PROVIDER will develop procedures and provide training programs to address all types of emergency situations, including accidents, crime/security incidents, and inclement weather.

Accident/Incident Response and Reporting

SERVICE PROVIDER shall develop and implement procedures, subject to the COUNTY review and approval, to respond to and report all accidents and incidents. Such occurrences are to include vehicle accidents, passenger injuries or disturbances, employee injuries, and lift failures on in-service vehicles.

All traffic accidents involving Henderson County Transit fixed route and paratransit vehicle service system vehicles are to be reported promptly to the appropriate police unit, as well as the COUNTY. The specific accident reporting requirements are detailed on page 53.

Accident Investigation, Rating and Follow-up

SERVICE PROVIDER will develop procedures to investigate, review and rate each accident to determine if the accident could have been prevented utilizing National Safety Council definition of preventability. In addition, this review will establish the need (and schedule, as necessary) for any corrective training, operating guideline revision, or equipment maintenance or technical correction required, together with a follow-up to assure that action has been completed.

All staff involved in accident investigation must be properly trained in accident investigation as required by the US Department of Transportation.

ADA Requirements

Program will encompass provisions for meeting ADA public transit requirements, including the policies, regulations and training of all vehicle operators in the safe use of all ADA vehicle equipment. Requirements include operation of the wheelchair lift equipment, wheelchair tie-down procedures, wheelchair lift standee policies, operation of vehicle kneeling feature, public address system, boarding and securing of the mobility devices, service animal regulations, first aid, CPR and an awareness of a variety of disabilities and the medical symptoms or risks associated with them.

Drug and Alcohol Testing Program

The SERVICE PROVIDER will be responsible for developing and implementing a Drug and Alcohol Testing Program that complies with 49 CFR Parts 653 and 654. Monthly reports must be submitted to the COUNTY documenting the details of the tests that have been administered. The annual Federal Management Information System (MIS) reports with specific the COUNTY information are to be submitted to the COUNTY no later than February 15 of each year. The SERVICE PROVIDER must permit the COUNTY and any authorized representative of US DOT to inspect facilities, and records associated with the program. The Drug and Alcohol Testing Program requirements will be reflected in the Accident Response procedures.

The SERVICE PROVIDER agrees further to certify to the COUNTY annually its compliance with Parts 653 and 654 before December 31st each year. To certify compliance, the SERVICE PROVIDER shall use the "Substance Avehiclee Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and

Cooperative Agreements,” which is published annually in the Federal Register.

Vehicle Rodeo

The SERVICE PROVIDER will be responsible for the planning, organization, cost and carrying out of the Henderson County Transit vehicle system’s participation in local, state and national vehicle rodeo competitions. This involvement includes training, course knowledge, competition regulations and the actual event coordination.

The COUNTY strongly supports vehicle rodeo competitions and views the program as an important safety and training opportunity. The COUNTY will encourage the SERVICE PROVIDER’s continued active involvement in this vital safety/training function for all vehicle drivers.

SERVICE PROVIDER will be responsible for any professional association memberships to enable local vehicle rodeo winners to participate in the National Rodeo.

Customer Service

Investigation and Response to Customer Complaints

The COUNTY shall receive all customer complaints, concerns and commendations and forward them to SERVICE PROVIDER within 24 hours for investigation and follow-up action.

SERVICE PROVIDER shall provide to the COUNTY written procedures for investigating and responding to complaints within thirty (30) days prior to the start of revenue service.

SERVICE PROVIDER will provide a response to the COUNTY for all customer complaints within three (3) days of the COUNTY’s notice.

SERVICE PROVIDER shall provide to the COUNTY a monthly report that summarizes the responses and investigation status of each customer complaint reported by the COUNTY. All complaints more than seven (7) working days old which have not resulted in a completed investigation and follow-up response (telephone or written) to the COUNTY must be listed separately.

Ticket/Pass Sales Program

SERVICE PROVIDER will sell tickets and monthly passes at the Administration facility during service hours. SERVICE PROVIDER will accept payment by cash, check, money order, and electronic payment format. A mail-in ticket and pass program is also to be provided. The SERVICE PROVIDER is also required to administer a ticket and pass consignment program to employers.

All revenues from the sales program are to be included in the passenger fare deposits. The SERVICE PROVIDER must provide complete accountability to the COUNTY for this program. A periodic inventory of tickets and passes will be conducted at the COUNTY's request.

Operating a Lost and Found Program

SERVICE PROVIDER will be responsible for managing all goods lost and found on the vehicles or at Henderson County Transit facilities. This may include fielding inquiries on the phone or in person at the SERVICE PROVIDER's Administration Office. Lost and found items will be held for sixty (60) days (unless the item is of great value).

Photo Identification Cards

SERVICE PROVIDER to prepare and issue photo identification cards to the elderly and disabled for federal discount fare benefits. Customer Information will record information and prepare a photo I.D. at the SERVICE PROVIDER's Administrative Offices for all eligible passengers requiring the discounted fare. Information on the recipients will be entered and maintained on a database.

Schedules, Passes, Tickets

SERVICE PROVIDER will distribute and disseminate such materials in accordance with the provisions of the CONTRACT and any directions supplemental thereto provided by the COUNTY.

Maintenance

SERVICE PROVIDER shall perform the duties and accept the responsibilities set forth below in connection with the maintenance of Henderson County Transit vehicles and equipment.

General Terms

SERVICE PROVIDER shall be responsible for the maintenance of all vehicles and all other equipment, furnishings and accessories required in connection with the operation of the system. Such items shall be in a clean, safe, sound, and operable condition at all times and in full accordance with any manufacturer recommended maintenance procedures and specifications. In addition, items shall be maintained in compliance with all applicable requirements of Federal, State, and County statutes or regulations.

In this regard, SERVICE PROVIDER shall provide all labor, repairs, parts, supplies, lubricants, solvents, and all other components, services, tools and equipment not provided by the COUNTY which may be required to fulfill its maintenance responsibilities at SERVICE PROVIDER's cost and expense.

In the event that the COUNTY provides SERVICE PROVIDER with additional vehicles and/or equipment at future times, SERVICE PROVIDER shall acknowledge receipt of such additional items upon their delivery to and acceptance by SERVICE PROVIDER.

Upon termination of CONTRACT, SERVICE PROVIDER shall return all the COUNTY equipment to the COUNTY ready for use, with no deferred maintenance or damage. The specific procedures to be followed for this turnover are outlined beginning on page 57.

Preventive Maintenance Program

SERVICE PROVIDER shall develop and submit a pro-active preventive maintenance program for review and approval by the COUNTY within thirty (30) days of the effective date of this AGREEMENT. As a minimum, SERVICE PROVIDER's preventive maintenance program shall adhere to the preventive maintenance schedules and standards of the industry, and shall be sufficient so as not to invalidate or lessen warranty coverage of any the COUNTY vehicle or associated equipment. Adherence to preventive maintenance inspection (PMI) schedules shall not be regarded as reasonable cause for deferred maintenance in specific instances where SERVICE PROVIDER's employees observe that maintenance is needed in advance of said PMI schedule.

SERVICE PROVIDER shall strictly adhere to the approved preventive maintenance program. SERVICE PROVIDER shall not defer maintenance for reasons of shortage of maintenance staff or operable vehicles, nor shall service be curtailed for the purpose of performing maintenance without prior written consent of the COUNTY. PMI's and running repairs shall receive first priority in the use of SERVICE PROVIDER's maintenance resources. SERVICE PROVIDER shall adjust the work schedules of its employees as necessary to meet all scheduled services and complete preventive maintenance activities according to the schedule approved by the COUNTY. SERVICE PROVIDER shall retain additional personnel or the services of outside firms, if necessary, to meet the COUNTY's maintenance requirements.

Mechanical Maintenance Program

SERVICE PROVIDER shall be responsible for the safe and efficient maintenance of all:

- a. Vehicles and equipment,
- b. Vehicle ADA equipment,
- c. Electronic farebox systems,
- d. Video surveillance equipment and components, and
- e. All other the COUNTY-provided equipment, furnishings, and accessories;

required in connection with its operation of Henderson County Transit in a clean, safe, sound, and operable condition at all times, and fully in accord with any Original Equipment Manufacturer (OEM) Specifications and

Requirements, in strict conformity to SERVICE PROVIDER's the COUNTY Approved Preventive Maintenance Program and applicable requirements of any Federal, State, or County statute or requirement.

SERVICE PROVIDER's duty and responsibility to maintain all vehicles and equipment shall not be delegated to any other person, firm or corporation.

All parts, materials, tires, lubricants, fluids, oils and procedures used by SERVICE PROVIDER on all the COUNTY vehicles and equipment shall meet or exceed Original Equipment Manufacturer (OEM) Specifications and requirements. All parts installed by the SERVICE PROVIDER on Henderson County Transit vehicles and equipment shall become property of the COUNTY or the COUNTY.

The Maintenance Manager shall implement a pro-active Quality Assurance Plan, subject to approval by the COUNTY, to verify the quality of work performed.

SERVICE PROVIDER, at its sole cost and expense, shall provide all:

- a. Labor
- b. Repairs
- c. Parts and Supplies
- d. Maintenance tools and equipment Lubricants
- e. Maintenance
- f. Cleaning
- g. Major components
- h. Component rebuilding and replacement
- i. Such other components, facilities, and services which may be required to fulfill its maintenance responsibilities pursuant to this CONTRACT
- j. Computer Software for tracking maintenance activities
- k. Tires

Generally, the Maintenance Program shall provide that:

- a. All wheelchair lift-related equipment shall be inspected, serviced and lubricated at intervals necessary to insure that the wheelchair lifts are fully operational.
- b. Brake inspections and adjustment shall be performed at intervals that insure the safe and efficient operation of the braking system, per manufacturer's specifications.
- c. All components of the vehicle bodies, appurtenances, and frames shall be maintained in a safe, sound, and undamaged condition at all times. Damage (including body, glass, and all vehicle appurtenances) shall be repaired in a professional manner within three weeks (21 calendar days) of occurrences. SERVICE PROVIDER may have difficulty securing adequate parts for the Flexible fleet. SERVICE PROVIDER must be able

to prove sufficient efforts to secure parts in order to receive a waiver on the 21 day requirement.

- d. All mechanical, electrical, fluid, air, and/or hydraulic systems shall be maintained in a safe and fully functional, as designed, condition at all times.
- e. The interior passenger compartment shall be free of exhaust fumes from the engine, engine compartment, and exhaust system of the vehicle.
- f. Heating, ventilation and air conditioning (HVAC) systems shall be maintained and used to insure that the passenger compartment temperature is comfortably maintained under all climatic conditions at all times. SERVICE PROVIDER shall maintain the A/C systems in an operable condition from March 1 through November 1, and the heating system in an operable condition from November 1 through March 1.
- g. Seats shall be maintained in proper operating condition at all times. All rips, tears, cuts, gum, graffiti and other damage shall be cleaned or repaired in a professional manner immediately upon their discovery. SERVICE PROVIDER shall replace seat covers which are worn or cannot be professionally repaired, using materials which are identical in design and color as those materials being replaced.
- h. Electronic farebox system shall be maintained in proper operating condition at all times.

Vehicle Brake Replacement

All repairs to Henderson County Transit vehicles shall be performed by SERVICE PROVIDER or other vendors. Repairs shall include, but not be limited to, work to correct loss or damage; adjustments due to normal wear and tear; and overhaul, rebuilding or replacement of components. Repair work shall be conducted as soon as practicable upon learning that such work is required. SERVICE PROVIDER shall perform repair work expeditiously in response to identification of problems by drivers or other staff members. SERVICE PROVIDER shall assure the COUNTY that required repairs shall not be deferred beyond a reasonable time.

SERVICE PROVIDER shall be familiar with vehicle and equipment warranties and shall comply with all warranty provisions and all manufacturer recommended maintenance activities in the conduct of its maintenance functions.

Out of Service Designation

A vehicle van shall be designated as unfit for revenue service (considered Out of Service) if, upon inspection, any of the following safety-related conditions are found:

- a. Brakes out of adjustment;
- b. Loose steering components;
- c. Air Conditioning unable to maintain a temperature 20°F lower than ambient or no lower than 72°F, from March 1 through November 1;
- d. Heating or Defroster inoperative, for the period November 1 through March 1;
- e. Tires with tread depth of less than 2/32", on the rear and 4/32" on the front;
- f. Inoperative Emergency Exits/Doors/Windows;
- g. Inoperative two-way radio;
- h. Any condition not in compliance with applicable Federal or State Regulations.

Vehicle shall continue to have the Out of Service designation until it is brought into compliance.

Maintenance Records

SERVICE PROVIDER shall prepare, maintain, make available to the COUNTY (or its Designee), and reduce to written form, records and data relative to the COUNTY vehicles and equipment maintenance. Maintenance records shall be maintained on all vehicles indicating all warranty work, preventive maintenance, and repairs performed on each vehicle. All such records shall be prepared and maintained in such a manner so as to fulfill any applicable state or federal requirements, as well as any needs of the COUNTY to enable it to accurately evaluate SERVICE PROVIDER's maintenance performance.

Maintenance Reports

SERVICE PROVIDER shall submit a summary of the maintenance and condition for each vehicle within its monthly report to the COUNTY:

Electronic Farebox System

SERVICE PROVIDER shall install, operate, and perform all required maintenance of electronic farebox system to ensure no disruptions in fixed route service and to ensure that all necessary data is retrievable from the system. SERVICE PROVIDER shall maintain electronic farebox system in accordance with manufacturer recommended maintenance procedures and specifications. SERVICE PROVIDER shall report any unusual maintenance problems to the COUNTY Project Coordinator within twenty four (24) hours of occurrence.

Vehicle Servicing and Cleaning

Daily Vehicle Servicing

SERVICE PROVIDER shall perform daily vehicle servicing on all the COUNTY vehicles and equipment. For purposes of this CONTRACT, daily servicing shall include, but not be limited to:

- a. Fueling
- b. Engine oil, coolant, water and transmission fluid check/add
- c. Farebox probing, vault pulling and replacement
- d. Tire inspection (air pressure, tread depth, and wear)
- e. Brake check
- f. Lights and flashers check
- g. Interior sweeping and dusting
- h. Exterior and interior visual inspection

SERVICE PROVIDER shall develop, implement, and maintain a written checklist of items included in the daily servicing of each vehicle. The checklist shall be utilized and kept on file for the COUNTY review for two years.

Vehicle Cleaning

SERVICE PROVIDER shall maintain Henderson County Transit vehicles in a clean and neat condition at all times.

Vehicle exteriors should be washed weekly or as necessary and interiors cleaned daily; including floors mopped and trash removed after each day's use. All foreign matter such as gum, grease, dirt and graffiti shall be removed from interior surfaces during the interior cleaning process. Upholstery shall be steam cleaned as necessary, but at least quarterly. Upholstery damage shall be repaired immediately upon discovery.

Rubber or vinyl exterior components such as tires, bumper fascia, fender skirts and door edge guards shall be cleaned and treated with a preservative at least once every fourteen (14) days, or as necessary to maintain an attractive appearance.

Vehicles shall be kept free of vermin and insects at all times. SERVICE PROVIDER shall exterminate all vermin and insects from all vehicles immediately upon their discovery, utilizing safe, non-hazardous and EPA approved insecticides/materials.

Vehicle Stop Evaluation

SERVICE PROVIDER will evaluate requests for additional stops and make recommendations to the COUNTY on stop additions, removals and relocation. The recommendations need to be based on ADA, safety and community considerations.

This task will also be undertaken for new routes. The SERVICE PROVIDER is to make recommendations on all vehicle stops for new routes or realigned routes. The recommendations are to be accompanied by complete documentation for each of the proposed signs, including sketches of site with information on adjacent roads, land uses, and ADA requirements.

Revenue Collection, Reconciliation and Deposit

SERVICE PROVIDER will develop a Plan to assure that revenue collection, reconciliation, reporting, and deposit procedures meet industry standards and conform to local and federal requirements. This Plan is to be submitted to the COUNTY and approved one month in advance of service start-up.

Records and Reports

SERVICE PROVIDER must maintain detailed records in all areas of the operation. This information is vital to ensure compliance with county, federal and state requirements and to enable a thorough monitoring and evaluation of the system, including ridership, revenue, maintenance activities, safety measures, vehicle service efficiency and effectiveness and customer feedback.

The SERVICE PROVIDER must develop and implement a plan to ensure the development of a comprehensive and accurate record keeping and reporting program that encompasses all aspects of the operation. This record keeping/reporting plan is to be submitted to the COUNTY one month prior to service start-up, and is to be approved by the COUNTY prior to start-up.

The following are to be incorporated in the SERVICE PROVIDER's record keeping/reporting plan:

- The program must utilize automated data processing to facilitate the efficient compilation and comprehensive analysis of the required data and reports.
- All data and records collected pertinent to the CONTRACT must be accessible in the form of a hard copy and an electronic medium accessible by the COUNTY at any time. This information also needs to be accessible by the Federal Transit Administration (FTA) Administrator, the Comptroller General of the United States or any of their authorized representatives pursuant to 49 C.F.R. 18.36(1).
- Data processing records must have the ability to be downloaded onto a COUNTY medium and must be accessible to the COUNTY at any time.
- The SERVICE PROVIDER agrees to maintain all books, records, accounts and reports required under this CONTRACT for a period not less than three (3) years after the date of termination or expiration of this CONTRACT.

- SERVICE PROVIDER shall allow the COUNTY access and inspection of records and reports. Further, any duly authorized representative of the COUNTY shall be permitted to observe and inspect any or all of the SERVICE PROVIDER's subcontracted facilities and activities for the purposes of evaluating and judging the nature and extent of SERVICE PROVIDER's compliance with the provisions of this AGREEMENT. In such instances, the COUNTY's representative(s) shall not interfere with or disrupt such activities.
- SERVICE PROVIDER is responsible for compiling information regarding revenue service operations, including vehicle revenue hours; vehicle mileage, passenger trips and service failures for the preparation of the National Transit Database report (formerly Section 15 report). This report is critical to receipt of federal funding and the SERVICE PROVIDER must ensure that all deadlines established by FTA for receipt of report and any follow-up responses are adhered to.

Required Reports

The following reports are to be submitted to the COUNTY on a monthly basis:

A. Maintenance Reports

Requirements are outlined on page 49.

B. Operations Reports

1. Fixed Route Services

a. Daily Dispatch Log

b. Daily Operating Report

1. Total runs dispatched
2. Total revenue hours operated
3. Total dispatched runs and revenue hours that were missed
4. Total dispatched runs that were delayed
5. Total number of trips monitored by Service Provider
6. Total monitored trips recorded as late or early
7. Total number of authorized extra trips
8. Accidents involving any Henderson County Transit vehicle or passenger
9. Total number of vehicle failures (identified as major or minor) by vehicle and run number
10. Total number of vehicles (in service) with inoperable wheelchair lifts identified by vehicle number
11. Farebox problem, tampering, vandalism etc. by vehicle number

12. List of supervisors driving routes and run number
13. Number of dispatchers and supervisors on duty (not driving)
14. Number of open runs (DRIVER's) and run number

c. Monthly Henderson County Transit Service Reports

1. Total number of major and minor mechanical failures by vehicle number and run number
2. Total miles between failures
3. Mileage per month
4. Total missed trips and hours
5. Total supervisor hours driving routes
6. Completed NTD Report (National Transit Database)

C. Safety Reports

1. Monthly Drug and Alcohol Testing Information

Number of tests administered by personnel category and all positive and negative results for the following categories:

- Pre-employment
- Post Accident
- Random
- Reasonable Suspicion

2. Monthly Accident Statistics

- Preventable and Non preventable
- Passenger Injuries
- New Workers Comp Injuries, and Injuries per 100 employees
- Incidents

3. Accident Reporting

Dispatch Memorandum of Accident (including drug & alcohol testing requirements)

- a. Supervisors Accident Report
- b. Drivers Accident Report
- c. Police Report
- d. Safety Department Follow up Report
- e. Drivers MVR checks every six (6) months

4. Driver Motor Vehicle Records Reports

Comprehensive check of all driver MVR reports every six months.

D. Revenue Reports

1. Daily Reconciliation Report

- Ticket Sales
- Consignment Revenue
- Advertising
- Cash
- Total Revenue
- Total Deposit

2. Electronic Farebox Reports

- Daily Revenue and Ridership Report
- Daily Farebox Data Verification Report (discrepancies)
- Daily Exception Report
- Daily Security Report
- Monthly Revenue and Ridership Report

E. Customer Service Monthly Reports

Complaints/Commendations

- Copy of each complaint and commendation
- Summary of investigations and follow-up action

F. Personnel Reports

Total Positions by Department and Classification – Required, Filled and Vacant

Number of Employees in Training (by Department)

G. COUNTY Notification – Within Two Hours

- a. Any accident
- b. Incidents that involve any personal injury or delays a route more than 60 minutes
- c. Missed trips
- d. Major vehicle failure
- e. Detour or deviation off normal routes

Personnel

SERVICE PROVIDER is responsible for developing an organization and personnel plan for the operation and for all of the responsibilities relating to the employment, training and supervision of the employees.

Organization and Personnel Plan

The SERVICE PROVIDER will provide an organization and personnel plan identifying staffing levels for each department. The plan needs to detail job descriptions, full time or part time designation, shifts, days of assignment and projected annual hours. The organization and staffing levels need to enable the delivery of a public transportation service that meets the COUNTY goals. As conditions change during the life of the CONTRACT, the SERVICE PROVIDER is required to develop revisions to this plan to ensure the delivery of quality transit service.

Management

SERVICE PROVIDER shall provide management staffing at a level and capability sufficient to oversee its functions and employees.

SERVICE PROVIDER shall designate and provide the services of a full-time General Manager, subject to the approval of the COUNTY, who shall provide overall management and supervision of the COUNTY under the terms of this AGREEMENT.

The General Manager shall work cooperatively with the COUNTY's Project Coordinator in matters relating to service quality, providing operational and other data as described in this Scope of Work, responding to comments from the COUNTY passengers and the general public, and responding to specific requests for other assistance as the need arises.

SERVICE PROVIDER shall assure the COUNTY that the General Manager designated for this project will not be replaced without the written consent of the COUNTY. Should the services of the General Manager become unavailable to SERVICE PROVIDER; the resume and qualifications of the proposed replacement shall be submitted to the COUNTY for approval as soon as possible, but in no event later than ten (10) working days prior to the departure of the incumbent General Manager.

Any new General Manager will be adequately briefed of ongoing and upcoming issues by departing General Manager.

SERVICE PROVIDER will also provide a plan for how key supervisory functions in Operations, Maintenance, and Safety will be provided.

Employee Screening and Selection

SERVICE PROVIDER shall use appropriate screening and selection criteria to employ all staff. A detailed method for the selection of all employees must be developed and approved by the COUNTY one month prior to service start-up. The selection method must identify a process for evaluating minimum requirements. The County does encourage the SERVICE PROVIDER to strongly consider those persons currently providing the service.

The following needs to be addressed in the screening and selection program:

- Proven ability in the area of customer service. This is vital to the delivery of quality transit services;
- Review of driving ability for all employees operating transit vehicles;
- References of past employment;

- Drug and alcohol testing for safety-sensitive employees; this includes a signed waiver at time of hiring for any drug/alcohol testing results to be given to the COUNTY;
- Job related requirements for each position.

Training

SERVICE PROVIDER shall develop, implement, and maintain a formal training and retraining program which shall be subject to review and approval by the COUNTY. All operators, dispatchers, customer service personnel, supervisors and managers shall participate in the program.

An important part of the program is a Customer Relations component. All employees having contact with the public must complete the Customer Relations course. The purpose of the course is to help provide employees with skills in providing quality customer service to passengers and the public.

Dispatchers, telephone operators, supervisors, and any other personnel who may from time-to-time be assigned to telephone information lines shall be trained in customer relations skills, telephone manners, accident/incident procedures, and operating policies.

As part of the training program, SERVICE PROVIDER shall prepare and distribute to all operators, dispatchers, telephone operators, and supervisors a Driver's Manual. Contents of the Driver's Manual shall include the following subject areas: Driver's rules; accident/incident policies; radio policies and procedures; electronic farebox policies and procedures; video surveillance policies and procedures, fog and inclement weather policy; vehicle inspection, care and maintenance policy and procedures, reporting procedures and pertinent sample forms.

For operators, SERVICE PROVIDER must certify in writing, by name, each individual operator as having satisfactorily completed all requirements and training courses prior to allowing that individual operator to operate a vehicle in revenue service. This certification requires a minimum of twenty-four (24) hours of training for each operator, full and part-time. The exception shall be any person for whom the SERVICE PROVIDER can provide written documentation of both one year's experience as an operator for the SERVICE PROVIDER in a different operation operated by the SERVICE PROVIDER and at least eight (8) hours of formal training by the SERVICE PROVIDER at Henderson County Transit's operation.

To maintain each individual operator's certification, the SERVICE PROVIDER must provide and document annual refresher training of at least eight (8) hours for each operator covering passenger relations, operating procedures, ADA regulations, defensive driving and equipment updating. Additionally, the SERVICE PROVIDER's trainer shall conduct and document an on-board evaluation with each operator.

Each ride check shall be a minimum of one hour and shall be conducted every three months on each operator.

The SERVICE PROVIDER is responsible for training all fixed route operators on the requirements for public transit as defined in the Americans with Disability Act of 1990 (ADA) requirements. A comprehensive, on-going training program shall be developed by the SERVICE PROVIDER addressing fixed route service ADA requirements. The COUNTY will strictly enforce compliance with the ADA law and has established performance standards to insure the SERVICE PROVIDER's employees are responsible in this area. ADA requirements for fixed route drivers are defined in the COUNTY's ADA Plan and Performance Standards.

Supervision

The SERVICE PROVIDER's supervision program must ensure that a high quality level of service is being delivered to Henderson County Transit passengers. Supervisor staffing levels in all departments should be evaluated carefully by the SERVICE PROVIDER to meet the above goal. Supervisors must have and maintain a valid Commercial Driver's License.

The SERVICE PROVIDER must document and report to the COUNTY all instances where supervisors and dispatchers are used as operators. The SERVICE PROVIDER must develop a plan for ensuring adequate supervision in these instances.

Uniforms

It is the County's goal that the vehicle operators and supervisors be easily identifiable. A uniform is not required per se, but the SERVICE PROVIDER will offer a cost effective plan for identifying Henderson County Transit employees to the riding public.

Equal Employment Opportunity (EEO)/Affirmative Action

SERVICE PROVIDER must develop and implement an EEO and Affirmative Action program that meets or exceeds all federal, state, and the COUNTY policies.

SERVICE PROVIDER to prepare EEO program that complies with FTA Circular 4704.1 "Equal Employment Opportunity Program Guidelines for Grant Recipients" and submits to the COUNTY by June 30, 2000. SERVICE PROVIDER to update program and submit annually to the COUNTY.

TURNOVER PROCEDURE

Upon termination of this AGREEMENT, SERVICE PROVIDER shall return all of the COUNTY owned vehicles and equipment to the COUNTY ready for use, with no

deferred maintenance or damage. The Turnover Procedure outlined below will be followed during the turnover period.

In the event that SERVICE PROVIDER returns the County vehicles and/or equipment to the COUNTY with deferred maintenance or damage (as identified in the Turnover Procedure), the COUNTY shall determine the cost to correct such deficiency(s) and the COUNTY shall withhold said amount from SERVICE PROVIDER's final payment(s). The COUNTY may, at its discretion, use withheld funds to correct and resolve deferred maintenance and/or damage as necessary to bring fleet into compliance with acceptable standards for turnover.

Turnover Procedure Purpose

This procedure is designed to determine the condition of the COUNTY vehicles and equipment at the time of turnover between SERVICE PROVIDERS. This Turnover Procedure shall be implemented toward the end of the current CONTRACT term and prior to the commencement of the new CONTRACT. At the COUNTY's option, a Turnover Inspection may be implemented with or without a change in SERVICE PROVIDER.

Pre-Audit Meeting

Successful PROPOSER and the COUNTY (or its designee) shall meet sixty to ninety (60-90) days prior to turnover. All parties shall be represented by authorized personnel at this Pre-Audit Meeting. The purpose of the Pre-Audit Meeting shall be to set guidelines for procedure during the Initial Audit. Procedures shall be agreed upon and confirmed in writing by all parties within five (5) working days of the Pre-Audit Meeting.

Initial Audit

Successful PROPOSER, and the COUNTY (or its designee) shall meet thirty to sixty (30-60) days prior to turnover at the SERVICE PROVIDER's facility. All parties shall be represented by authorized personnel at this Initial Audit. SERVICE PROVIDER shall make available their current facility and such personnel as necessary to move coaches and operate hoists. SERVICE PROVIDER shall make available to the COUNTY (or its designee) all preventive maintenance inspection records, daily driver inspections, oil analyses test results and other records as appropriate. SERVICE PROVIDER, Successful PROPOSER, and the COUNTY (or its designee) shall cooperate fully during the Initial Audit as set forth in the guidelines determined at the Pre-Audit Meeting.

At this time the COUNTY (or its designee) shall examine every vehicle and determine its current condition. SERVICE PROVIDER shall make available adequate facilities and equipment dedicated to accommodate the Initial Audit. All parties shall be provided the draft results of this inspection at the conclusion of the Initial Audit.

After the Initial Audit, SERVICE PROVIDER and the COUNTY (or its designee) shall meet to determine a plan and timeline for resolution of defects found during the Initial Audit. SERVICE PROVIDER shall furnish the COUNTY with timeline

and specific plan for resolution of deferred maintenance prior to turnover. The "Resolution Plan" shall be submitted no less than thirty days (30) prior to expected Turnover date.

Turnover Audit

Not less than ten (10) days prior to turnover, the COUNTY (or its designee), SERVICE PROVIDER, and Successful PROPOSER, shall meet to physically re-examine every vehicle. Records shall be kept, and made available to the COUNTY (or its designee), documenting items which have been repaired since initial inspection. Current condition of every coach shall be determined. SERVICE PROVIDER shall make available adequate facilities and equipment dedicated to accommodate the Initial Audit. All parties shall be provided the draft results of this inspection at the conclusion of the Turnover Audit.

HENDERSON COUNTY
Planning Department

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

MEMORANDUM

TO: Henderson County Board of Commissioners

FROM: Anthony Starr, Planning Director
Anthony Prinz, Planner II

DATE: August 3, 2006

SUBJECT: Authorization Resolution

To initiate the urbanized area transit grant (U.S.C. 5307) program, Henderson County is required by the Federal Transit Administration (FTA) to set up an account on the Transportation Electronic Award Management (TEAM-Web) system. TEAM-Web is an online project and financial management system that Henderson County will use to coordinate all grant operations and reimbursement payments with the FTA. Prior to establishing a TEAM-Web account, the FTA requires that the recipient agency adopt the attached resolution. Adoption of the resolution confirms Henderson County's willingness to participate in the urbanized area transit grant program and also establishes the Planning Director (or his/her designee) as the primary contact person for the FTA. Once adopted, County staff will submit a copy of the resolution to the FTA confirming our transit grant eligibility and will proceed with the process of establishing a TEAM-Web user account.

Resolution No. _____

Resolution authorizing the filing of applications with the Federal Transit Administration, an operating administration of the United States Department of Transportation, for Federal transportation assistance authorized by 49 U.S.C chapter 53, title 23 United States Code and other Federal statutes administered by the Federal Transit Administration.

WHEREAS, the Federal Transportation Administrator has been delegated authority to award Federal financial assistance for a transportation project;

WHEREAS, the grant or cooperative agreement for Federal Financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost;

WHEREAS, the Applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project.

NOW, THEREFORE, BE IT RESOLVED BY HENDERSON COUNTY, NORTH CAROLINA

1. The Henderson County Planning Director or his/her designee is authorized to execute and file application for Federal assistance on behalf of Henderson County with the Federal Transit Administration for Federal Assistance authorized by 49.U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration. The applicant has received authority from the Designated Recipient (Asheville Transit) to apply for Urbanized Area Formula Program assistance.
2. The Henderson County Planning Director or his/her designee is authorized to execute and file with its application the annual certification and assurances and other document the Federal Transportation Administration requires before awarding a Federal assistance grant or cooperative agreement.
3. The Henderson County Planning Director or his/her designee is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of Henderson County.

CERTIFICATION

Dually passed and adopted by the Board of Commissioners of Henderson County, North Carolina, this 16th day of August 2006.

HENDERSON COUNTY BOARD OF COMMISSIONERS

William Moyer, Chairman

ATTEST:

Clerk to the Board