

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY**

### **BOARD OF COMMISSIONERS**

**MEETING DATE:** August 6, 2012

**PRESENTER:** Anthony Starr and Sarah Zambon

**SUBJECT:** Authorize County Manager to Sign Transit Contract Amendments

**ATTACHMENT(S):** Draft amendments to transit contracts

#### **SUMMARY OF REQUEST:**

The County has been requested to sign transit contract amendments to incorporate some technical changes required by the federal government to receive transit funds. These amendments are technical and not substantive in nature, cost the County no additional funds, and do not modify any of the remaining terms of the original agreements. The current requested amendments are modifications of the sub-recipient agreement and the service provider contract.

Staff asks that the County Manager be permitted to sign these contracts and future technical amendments on behalf of the County. Any substantive amendments, renewals, or new agreements would still come before this Board for approval.

Staff from the Planning Department and Legal Department will be present and prepared if requested to give further information on this matter.

#### **BOARD ACTION REQUESTED:**

Authorize the County Manager to sign proposed and future transit contract amendments that are technical in nature and do not require any addition County funds.

If the Board is so inclined, the following motion is suggested:

***I move that the Board authorize the County Manager to sign all technical amendments to transit contracts.***

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**AMENDMENT TO  
SUB-RECIPIENT AGREEMENT FOR FEDERAL TRANSIT FUNDS**

This Amendment to the July 1, 2006 Sub-Recipient Agreement for Federal Transit Funds, made and entered this the \_\_\_ of \_\_\_\_\_, 2012, by and between **Henderson County**, a body politic and corporate under the laws of the State of North Carolina (hereinafter the "COUNTY") and **City of Asheville** (hereinafter the "CITY"), a municipal corporation, organized and existing under the laws of the State of North Carolina.

**WITNESSETH:**

**WHEREAS**, the Parties hereto entered into a Sub-recipient Agreement on July 1, 2006, outlining the conditions for receipt of federal transit funds; and

**WHEREAS**, pursuant to a request from the Regional Administrator from Region IV, the U.S. Department of Labor (DOL), reviewed the City/County's 2012 grant application for federal transit funding; and

**WHEREAS**, DOL require that recipient of federal transit funds provide to transportation related employees in the service area of the project, protections satisfying the requirements of 49 U.S.C., Section 5333(b);

**WHEREAS**, DOL deemed the portion of the 2012 grant application applicable to the City as being in compliance with 49U.S.C. Section 5333(b) but, as to the County, DOL required the City as a precondition to the release of federal funds to the County that the County agree to the terms of the May 30, 2012 letter by incorporating said letter along with the terms and conditions of the Unified Protective Arrangement (UPA) into the contract of assistance between the City and County; and

**WHEREAS**, the County agrees to be bound by the May 30, 2012 letter along with the terms and conditions of the January 3, 2011 Unified Protective Arrangement as referenced in said letter.

**NOW THEREFORE**, for valuable consideration and mutual promises, the adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The County hereby agrees to be bound by the May 30, 2012, letter along with the terms and conditions of the respective protective arrangements reference in said letter, said letter being attached hereto as Exhibit A and incorporated herein by reference and agrees to future related agreements.
2. The County further agrees, as a precondition to the release of federal transit funds to any service provider to require that such service provider agree to the respective terms and conditions as referenced in the May 30, 2012 letter, by incorporating the May 30, 2012 letter along with the terms and conditions of the Unified Protective Arrangement (UPA) and future related agreements into the contract of assistance between the County and the Service Provider.
3. Except as herein amended, the remaining provisions of the July 1, 2006 Agreement between the parties hereto, remains in full force and effect.

**IN WITNESS WHEREOF**, each party has caused this Amendment to be duly executed on the day and year first above written and if corporate, by their duly authorized representative.

Attest:

HENDERSON COUNTY

\_\_\_\_\_  
Teresa L. Wilson, Clerk  
Henderson County Board of Commissioners

By: \_\_\_\_\_  
Steve Wyatt, County Manager

CITY OF ASHEVILLE

\_\_\_\_\_  
Maggie Burleson, City Clerk

/By: \_\_\_\_\_  
Gary W. Jackson, City Manager

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STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, Notary Public of the County and State aforesaid certify that Teresa L. Wilson, Clerk to the Henderson County Board of Commissioners, personally came before me this day and acknowledged that she is the Clerk for the Henderson County Board of Commissioners, a corporation and body politic, and that by authority duly given and as the act of the County, the foregoing instrument was signed by its County Manager.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public: \_\_\_\_\_  
Print or type name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

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STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

I, Notary Public of the County and State aforesaid certify that Maggie Burleson, City Clerk, personally came before me this day and acknowledged that she is the City Clerk for the City of Asheville, a municipal corporation and that by authority duly given and as the act of the municipality, the foregoing instrument was signed by its City Manager.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public \_\_\_\_\_  
Print or type name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**HENDERSON COUNTY TRANSIT PROVIDER  
AMENDMENT**

This Agreement made and entered this the \_\_\_ of \_\_\_\_\_, 2012 , by and between **Henderson County**, a body politic and corporate under the laws of the State of North Carolina (hereinafter the "COUNTY") and **Western Carolina Community Action** (hereinafter the "SERVICE PROVIDER"), a nonprofit organization is a renewal of the original agreement signed on July 1, 2006 by the parties.

**Witnesseth**

WHEREAS the County and the Service Provider have had an agreement for transit services since July 1, 2006;

WHEREAS the County is desirous to contract with the Service Provider for the continuance of these services; and

WHEREAS the previous agreement allows the County and the Service Provider to renew the Agreement;

NOW THEREFORE, for valuable consideration and mutual promises, the adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Service Provider hereby agrees to comply with the terms of the May 30, 2012 Department of Labor letter and the terms and conditions of the Unified Protective Arrangement which are hereby incorporated by reference and future related agreements.
2. ORIGINAL TERMS: All terms established in the Original Agreement except as modified above, shall remain in effect for the duration of this Agreement.

**IN WITNESS WHEREOF**, each party has caused this Amendment to be duly executed on the day and year first above written and if corporate, by their duly authorized representative.

On this the \_\_\_ day of \_\_\_\_\_, 2012.

Attest:

HENDERSON COUNTY

\_\_\_\_\_  
Theresa L. Wilson, Clerk to the Board  
(official seal)

By: \_\_\_\_\_  
Steve Wyatt, County Manager

SERVICE PROVIDER

By: \_\_\_\_\_  
\_\_\_\_ David White, Executive Director, WCCA

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STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

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

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Notary Public: \_\_\_\_\_  
Print or type name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

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STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, Notary Public of the County and State aforesaid certify that David White, personally came before me this day and acknowledged that he is the Executive Director of Western Carolina Community Action (WCCA), a lawful corporation under the regulations of North Carolina, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by himself as its Executive Director.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
Print or type name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

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**PRE-AUDIT CERTIFICATION**

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act N.C.G.S. 159-28(a)

By: \_\_\_\_\_  
L. Carey McLelland  
Henderson County Finance Director

Date: \_\_\_\_\_