

Minutes of the 4 September 2012
Regular Meeting of the Yancey County Board of Commissioners
Held at 7:00 o'clock p.m. in the Yancey County Courtroom
Yancey County Courthouse, Burnsville, North Carolina

Present at the 4 September 2012 meeting of the Yancey County Board of Commissioners were Chairman Johnny Riddle, Commissioner Jill Austin, Commissioner Dale England, Commissioner Michele Presnell, Commissioner Marvin Holland, County Manager Nathan Bennett, Clerk to the Board Jason Robinson, County Attorney Donny Laws, members of the media, and members of the general public.

Call to Order and Approval of Agenda

Chairman Riddle called the meeting to order. He then asked Commissioner Holland to deliver the invocation. Chairman Riddle then led everyone in the Pledge of Allegiance. Chairman Riddle then asked for a motion to approve the agenda. Commissioner Holland made a motion to approve the agenda and it was seconded by Commissioner Presnell. The vote to approve was unanimous. (Attachment A)

Approval of the Minutes

The Board next considered the minutes from the August 7th regular meeting. Commissioner Austin made a motion to approve those minutes and it was seconded by Commissioner Presnell. The vote to approve was unanimous.

Public Comment

The first person to speak before the Board was Bill Grover. He spoke about the education system and how it was different then when he grew up when we all lived under the constitution. According to him we now all live under the American Bar Association which is the most dangerous organization ever formed in the United States. The next person to speak before the Board was Anthony Robinson who spoke about the Federal Reserve. According to him all of the presidents who have been assassinated and all of the wars since World War I have been caused because of the Federal Reserve and the international banks. The next person to speak before the Board was Ray Fox. He spoke about economics and the national debt which we have built ourselves. According to him as long as neither party controls both the presidency and Congress then nothing will be done, it will be like it has been for the last two years.

Prescription Drug Task Force

The Board next heard from Mechelle Akers, chairperson of the Prescription Drug Task Force and Dora Smith-Cook, staff coordinator concerning the Prescription Drug Task Force. Ms. Akers presented before the Board one of the main reasons for the task force was the high rate of accidental overdose in Yancey and Mitchell Counties. According to Ms. Akers there was a 21% accidental overdose rate for Yancey County and a 25% accidental overdose rate for Mitchell County. Both of these were significantly more than the statewide average of 11%. Ms. Akers and Ms. Smith-Cook gave the Board an update on some of the programs that the task force is working on which includes a jail diversion program which would be cheaper than housing inmates, and also an education initiative with the local physicians about pain management. After discussion by the Board with Ms. Akers she informed the Board about the monthly meetings of the task force (Attachment B)

RHA Behavioral Health

The Board next heard from Sandy Feutes and Cesre McQuaid with RHA Behavioral Health. Ms. Feutes informed the Board of how RHA has become the safety net provider for Yancey County. Ms. Feutes stated that this has been a challenging year for RHA because the reimbursement rates don't cover the services provided. Ms. McQuaid informed the Board that although this has been a challenging year for RHA they are still committed to delivering the same services at the same rate as before. Ms. McQuaid also informed the Board of the services that RHA provides out of the Yancey office. Ms. McQuaid and Ms. Feutes both thanked the County for the office space that is provided at the Pensacola Road office site. Ms. Feutes also asked the Board to direct Western Highlands, to distribute the full amount of the maintenance of effort funds to RHA for this year. According to County Manager Nathan Bennett, the maintenance of effort funds for Yancey County this year are \$26,000 which was split equally for 2011-2012 between two entities. This year however Mr. Bennett stated that recommends that the entire amount should go to RHA in 2012-2013. Upon hearing from the RHA representatives and County Manager Bennett, Commissioner Holland made a motion to direct Western Highlands to

distribute all maintenance of effort funds to RHA Behavioral Health. The motion was seconded by Commissioner England and the vote to approve was unanimous.

Board Appointment

The Board next heard from County Manager Nathan Bennett concerning a vacancy on the Toe River Board of Health. According to Mr. Bennett, Health Director Lynda Kinnane advised him that the Toe River Board of Health needed a representative from Yancey County who is a dentist. Mr. Bennett stated that Ms. Kinnane had contacted a number of dentists and Dr. Scott Poling was interested in serving on the Board of Health. Upon hearing from Mr. Bennett, Commissioner Austin made a motion to appoint Dr. Poling to the Toe River Board of Health and it was seconded by Commissioner England.

County Manager Business

The Board next heard from County Manager Nathan Bennett. Mr. Bennett first brought before the Board the request from the Yancey County Schools about waiving all tipping fees for the demolition of the former school bus garage from the August meeting. The total of the tipping fees total \$2,457.08. Commissioner England expressed a desire to waive all of the tipping fees as a gesture of good will to the school system. Commissioner Holland asked about the impact this has on the County's budget. County Manager Bennett stated that the disposal of solid waste is a contract and is a set amount that is budgeted. Some years not all of the money is used and this would be absorbed into the larger amount. Discussion followed about the possibility of using the site of the former school bus garage as parking for Parkway Playhouse. Upon conclusion of discussion, Commissioner England made a motion to waive all tipping fees incurred by the school system for the demolition of the former school bus garage. The motion was seconded by Commissioner Austin and the vote to approve was unanimous. (Attachment C) Mr. Bennett next updated the Board about the North Carolina License Plate Agency. Mr. Bennett stated that the License Plate Agency will be opened on October 2, 2012 and two people have been hired, Kim Smith as the agency manager and Linda Grindstaff as the license plate clerk. Also, Mr. Bennett informed the Board that the Division of Motor Vehicles requires contracts to be signed for the operation of the license plate agency. These contracts are for three years and the County must pass all audits by the state. Upon hearing from Mr. Bennett, Commissioner Holland made a motion to authorize the county manager to execute the contracts to operate the North Carolina License Plate Agency. The motion was seconded by Commissioner England and the vote to approve was unanimous. (Attachment D) County Manager Bennett next updated the Board concerning the special projects that are underway. The first update was on Cane River Park where a community work day was held on August 25th and many members of the community participated in this activity. During this work day a large playground was installed as well as a natural playground. Mr. Bennett also stated that youth soccer and flag football were playing games at the park this fall. Commissioner Holland stated that he had spoken to the Habitat for Humanity folks have indicated that they would be willing to build two more sheds if the County will provide the material. The next project that Mr. Bennett updated the Board on was the East Yancey Sewer Project. Mr. Bennett stated that the line project was just under 50% complete and that work is continuing. Also, Mr. Bennett stated that the County is continuing to work with the Army Corp of Engineers to resolve the issue that has developed concerning stream crossing. Mr. Bennett next updated the Board about the former library building roof. He stated that he had been in touch with Cityscape Roofing about doing a quote for this work. Next, Mr. Bennett updated the Board on the Copperhead Drive situation in the Little Creek community. Mr. Bennett stated that he had talked with Stephanie Morris about using Community Development Block Grant (CDBG) funds to repair that road. Ms. Morris told Mr. Bennett that this had never been asked for before but she would find out. The next issue mentioned by Mr. Bennett was about the area of parking beside the First Baptist Church on North Main Street that is in desperate need of paving. County Attorney Donny Laws informed the Board that this came up after looking at the original deed that was done in 1833 which called for a 60 foot right-of-way for the public road. Mr. Laws stated that this area is a public road the same as South Main Street which the Town of Burnsville maintains. Mr. Bennett stated that the Department of Transportation (DOT) might be a place to start and thought secondary road money could be used to pave the area. Commissioner Holland stated that he thought that the Town of Burnsville had agreed to take the area. Mr. Laws then stated that he thought that a joint letter by the County, the Town of Burnsville, and First Baptist Church to the DOT might be the way to get started. If that doesn't work then all three entities might need to look at an alternative.

County Attorney Business

County Attorney Donny Laws informed the Board that he had no business to bring before them this month.

Commissioner Business

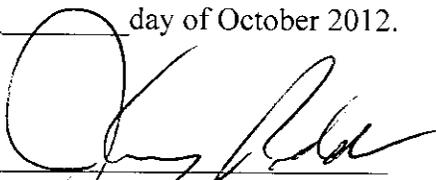
Chairman Riddle then asked any of the Board if they had any announcements or business. Commissioner England stated that he would like to see some work done at the soil and water offices that are located in the former health department on West Main Street. Chairman Riddle announced to everyone that the TRACTOR facility will be having their open house on September 28th.

Adjournment

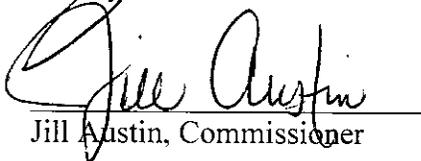
Having no further business Commissioner Holland made a motion to adjourn and it was seconded by Commissioner Austin. The vote to adjourn was unanimous.

Approved and authenticated on this the 2nd day of October 2012.

Attest:



Johnny Riddle, Chairman



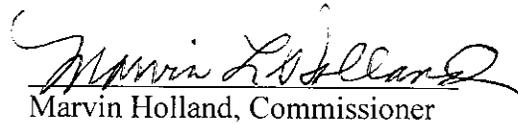
Jill Austin, Commissioner



Dale England, Commissioner



Michele Presnell, Commissioner

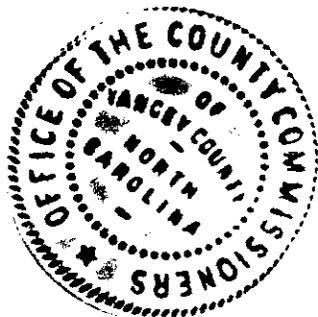


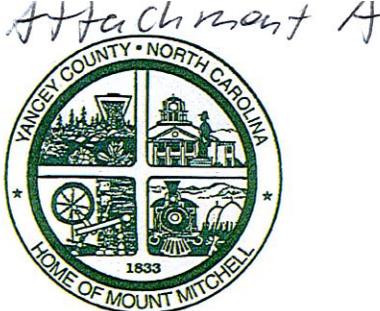
Marvin Holland, Commissioner



Jason Robinson
Clerk to the Board

(county seal)





COUNTY MANAGER
Nathan Bennett

COMMISSIONERS
Jill Austin
Dale England
Marvin Holland
Michele Presnell
Johnny Riddle

YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

AGENDA
YANCEY COUNTY BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING
September 4, 2012
7:00 P.M.

- I. Call to Order – Chairman Johnny Riddle
- II. Invocation and Pledge of Allegiance to the Flag
- III. Approval of the Agenda
- IV. Approval of Minutes
- V. Public Comment
- VI. Prescription Drug Task Force – Mechelle Akers, Chairperson, Prescription Drug Task Force
Dora Smith-Cook, Staff Coordinator
- VII. RHA Report/MOE Request – Cesre McQuaid, RHA Director of Behavioral Health
- VIII. Board Appointments – Toe River Board of Health – Dentist Appointment
- IX. County Manager Report
 - a. Yancey County Schools – Request for Waiver of Transfer Station Fees
 - b. License Plate Agency Contracts
 - c. Special Projects Update
- X. County Attorney Report
- XI. Commissioner Reports
- XII. Adjourn

Attachment B

Mitchell Yancey Coalition for Substance Abuse Prevention

Who: MYCSAP is a coalition of physicians, chiropractors, dentists, pharmacists, nurses, mental health counselors, educators, law enforcement, government leaders, church members, parents, media, health system administrators and community members whose main interest is in the prevention and treatment of substance abuse in our two counties. We are under the umbrella of Graham Children's Services, a not for profit organization located in Yancey County.

When: The coalition formed after a community forum on the issue of substance abuse was held in 2009. Dr Jim Haaga, the founding chair started holding monthly meetings July of 2010. Monthly meetings continue to this date.

Why: Substance abuse/misuse was the number one health concern among Mitchell County citizens according to the Mitchell County Community Health Assessment in 2009. According to North Carolina State Center for Health Statistic, 2009 deaths rates (per 100,000) from unintentional or undetermined intent poisoning in Mitchell County was 25.9 and 21.6 in Yancey. Both of these rates exceed not only North Carolina's (11.0) but also those of our neighboring counties of Madison (4.9), Buncombe (8.2) and Henderson (10.6). Seventy percent of persons overdosing on prescription medication obtained the drugs from family or friends. In 2002, there were 102 people arrested in Yancey County on drug related charges. That number exceeded 800 people in 2011, according to the Yancey County Sherriff's Department.

How: The coalition has sought to move forward many initiatives from all aspects in order to decrease substance abuse/misuse in our community. We are one of six coalitions in the state chosen to receive \$60,000 in grant money from the North Carolina Coalition Initiative (NCCI) administered by Wake Forreest University. NCCI is funded by NC Department of Health and Human Services Division of Mental Health, Developmental Disabilities and Substance Abuse Services. This grant will enable our coalition to further assess the needs in our community, formulate a strategic plan, build our capacity to effectively implement evidence-based strategies to reduce substance abuse, measure outcomes and put in place a structure for maintaining long term coalition efforts.

What is needed?

Jail Diversion Program- to assist local law enforcement in reducing the number of non-violent drug offenders residing in jail for excessive periods of time. Instead these individuals may be a candidate for pre-trial rehabilitation. Ultimately this would reduce dollars spent on incarceration and give opportunity for individuals to seek recovery. Buncombe County jail diversion program receives all the state funding for our area. We need the support of our local and state elected officials to help move this process along.

Coalition Accomplishments:

Mental Health and Substance Abuse Treatment Directory/Guide
Summer Activity Guide
High School Fitness/Mentoring Program for at risk students
Community Drug Drop Boxes and Drug Take Back Days
High School Listening Project
Public Education Initiatives
Professional Education Initiatives

Contacts:

Dora Smith-Cook, Staff Coordinator
dora.smith@trhd.dst.nc.us
828-682-7899

Mechelle Akers, Pharmacist /Chairperson
familyakers@hotmail.com
828-682-7636

Jim Haaga, Physician/Immediate Past Chair
jmhaaga@frontier.com
828-765-4201

Attachment C

COUNTYMANAGER
Nathan Bennett



COMMISSIONERS
Jill Austin
Dale England
Marvin Holland
Michele Presnell
Johnny Riddle

YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

SUMMARY OF CHARGES TO THE YANCEY COUNTY SCHOOLS FOR DEMOLITION OF THE FORMER SCHOOL BUS GARAGE

<u>Ticket Number</u>	<u>Amount Due</u>
293842	\$148.40
294024	\$41.34
293892	\$135.15
293893	\$101.23
293895	\$148.93
293900	\$133.56
293901	\$138.86
293904	\$130.91
293845	\$120.31
293848	\$96.46
293910	\$148.40
293911	\$104.41
293853	\$118.72
293857	\$131.97
293917	\$119.25
293923	\$159.53
293987	\$113.95
293988	\$126.67
293947	\$120.84
293952	\$118.19
TOTAL DUE	\$2,457.08

Attachment D

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
DIVISION OF MOTOR VEHICLES

LICENSE PLATE AGENCY CONTRACT

THIS CONTRACT made and entered into this 1st day of October, 2012, by and between the Division of Motor Vehicles of the State of North Carolina, acting by and through the Commissioner of Motor Vehicles, pursuant to authority vested in it by Subsection (h) of Section 20-63 of the General Statutes of North Carolina (hereinafter Division) and Yancey County (hereinafter Commission Contractor).

WHEREAS, it is the desire of the Division that a Motor Vehicle License Plate Agency (hereinafter LPA) be established and maintained at 14 Town Square Burnsville, North Carolina, for the purpose of receiving applications for the registration and titles to motor vehicles, for the issuance of motor vehicle license plates and validation stickers, for the collection of motor vehicle fees and taxes and for such other purposes related to the operation of a motor vehicle license office as the Division may determine, and

WHEREAS, the Commission Contractor has agreed to operate a LPA, in accordance with the terms of this contract and the "Standard Operating Procedure". A copy of which is appended hereto and incorporated as a part of this contract as if fully set out herein.

WHEREAS, the Commission Contractor agrees to comply with any changes the Division makes to the "Standard Operating Procedure".

Now, **THEREFORE**, in consideration of the premises and the covenants hereinafter set forth, the parties hereto agree as follows:

1. The Commission Contractor shall operate a LPA at 14 Town Square Burnsville, North Carolina, at which office it shall receive applications for the registration of motor vehicles, issue and transfer license plates and validation stickers, collect fees and taxes in connection therewith, and perform such other functions as may be mutually agreed upon between the parties hereto. No other business may operate or make sales made from the License Plate Agency. Except as authorized by the Standard Operating Procedures [hereinafter SOP].
2. The term of the contract shall be for a period of three years, beginning on the 1st day of October, 2012 and ending the 30th day of September, 2015.

At the end of the contract term, as listed above, the contract shall be automatically renewed for a subsequent period of twelve (12) months unless terminated by either party by written notice delivered to the other party at least sixty (60) days prior to the expiration of the contract term. Following that twelve (12) month automatic renewal, this contract shall be automatically renewed for an additional period of twelve (12) months unless terminated by either party by written notice delivered to the other party at least sixty (60) days prior to the expiration of the first twelve (12) month renewal term. Upon expiration of the original contract and both twelve (12) month extensions, the contract shall convert to a month-to-month contract subject to termination upon the same terms and conditions as set forth in Paragraph 4.

3. A new Commission Contractor, who has not held a commission contract within the preceding twelve (12) months, shall be subject to a one hundred eighty (180) day probationary period. During the probationary period, the Division shall perform monthly audits of the contractor and at the end of the probationary period the field supervisor shall furnish an evaluation of the operation to be reviewed by the Division. The field supervisor may recommend that the probationary period be extended for a period not to exceed an additional sixty (60) days. If the new operation is deemed unacceptable due to failure to adhere to contract requirements or provisions of the SOP the contract may be terminated by the Division.

4. Prior to the expiration of either the original or the renewal contract terms, either party may terminate this contract upon at least sixty (60) days written notice to the other party, the notice to specify the date upon which the contract is to terminate. Upon expiration of the original contract and both twelve (12) month extension, the contract shall convert to a month-to-month term as set forth in Paragraph 2 above. During the month-to-month term, either party may terminate the contract upon at least thirty (30) days written notice to the other party. Terminations as set forth in this paragraph made by either party may be for any reason, with or without cause. No reason or cause need be specified in the notice of termination.

5. The Division may immediately terminate this contract upon written notice for cause. For the purpose of terminating the contract, cause shall include, but not be limited to the following: failure to acquire or maintain the bond required herein; failure of the Commission Contractor, or its employees, to fully perform its obligation under the contract; ineligibility of the Commission Contractor to perform the duties of a Commission Contractor in the handling of property and funds of the Division; repeated disregard of the SOP, along with any changes which may be made thereto during the course of the contract; repeated failure to abide by administrative directives currently in effect or subsequently issued during the course of the contract by the Division; failure to abide by changes in the law due to action of the General Assembly or the Federal Government; repeated failure to correct deficiencies documented in the Division Field Supervisors Report; failure to maintain adequate staff to perform the duties of the Commission Contractor; or gross mismanagement of Division property. The solicitation, collection, or acceptance of any unauthorized fees, funds, goods, services, or chattels by the Commission Contractor or any of its employees will be good and sufficient causes for the immediate termination of this contract.

The Division may summarily terminate this contract by written notice where there is evidence of fraud, embezzlement, other criminal activity (including offenses involving moral turpitude), or other egregious conduct dealing with the public on the part of the Commission Contractor or its employees.

The Division reserves the right to cancel the contract immediately upon written notice to the Commission Contractor in the event that the Commission Contractor at any time engages in another business deemed by the Division to be in conflict with this contract, the rules of the Division, the rules set forth in the SOP, or the laws of the State of North Carolina.

6. The Commission Contractor shall maintain and operate at its own expense a LPA at the designated location, for the purpose above mentioned for which the Commission Contractor shall receive compensation at a rate per transaction as may be set by the General Assembly for each official receipt as authorized by the Division. The compensation provided for herein shall be paid monthly, as provided in the SOP. The Commission Contractor agrees that any indebtedness he may owe the Division when this contract is terminated may be deducted by the Division when making final settlement, such settlement to be made within sixty (60) days of the date of termination of the contract. It is fully understood that the commissions set forth in this contract shall be full compensation for all services rendered by the Commission Contractor.

7. The Commission Contractor and designated employees shall hold a Notary Public Commission issued by the Secretary of State of North Carolina. The Commission Contractor shall be allowed to charge notary or acknowledgement fees as set forth in the SOP and shall not exceed fees allowed under our General Statutes. The Commission Contractor may retain such notary or acknowledgement fees as part of the consideration allowed to the Commission Contractor under this contract. The Commission Contractor must give detailed accounting to the Division for all notary fees charged and collected under this contract. Such accounts will show the amount of notary fees charged for each transaction.

8. The Division shall deduct from commissions due to the Commission Contractor any shortages arising from insufficient collections and shortages in remittances made to the State Treasurer when depositing daily receipts. The Division shall deduct from commissions due to the Commission Contractor any monies paid by the Division pursuant to an existent or possible cause of action in any court of competent jurisdiction, including the North Carolina Industrial Commission, based upon actions or inactions of the Commission Contractor. Deductions shall also be made for license plates, validation stickers, and State equipment which are unaccounted for.

9. The Commission Contractor shall accept cash or checks in payment of all fees. The Division has established check verification procedures for the checkwriter which are included in the SOP. The Commission Contractor shall be liable for bad checks and penalties if the verification procedure is not strictly adhered to.

10. The Commission Contractor agrees to lease from the Division all computer equipment utilized in their normal day to day operation. This would include CPUs, monitors, printers hand scanners, software, and any other hardware that the Division deems necessary in order to operate as a LPA.

The Commission Contractor shall pay the monthly lease rate pursuant to the lease agreement between the Commission Contractor and the Division. These funds shall be held in an account earmarked for the replacement of leased equipment. The Division will determine when computer equipment should be replaced.

The Commission Contractor accepts full responsibility for safeguarding all property, computer equipment, and money received from and for the State of North Carolina and agrees to properly account for all state property and money in the manner required by the laws and regulations of the State and the Division and pursuant to the terms of the lease agreement. The Commission Contractor agrees to reimburse the Division for any State funds missing, stolen, misappropriated, or loss of State property in the operation of the LPA. The Division shall pay or cause to be paid the shipping expenses incidental to the delivery of license plates, validation stickers, forms, and reports to and from the Commission Contractor, and the Division may seek reimbursement from the Commission Contractor for said expenses.

11. The Commission Contractor's responsibility to the Division lies in the competent execution of this contract, and it may conduct the affairs of the LPA according to its good judgment and in keeping with proper business ethics and practices, subject to the requirements established by this contract, the SOP, and any other requirements as may be mandated from time to time by the Division. The Commission Contractor shall maintain its premises and operate in keeping with all state, local and federal laws and regulations, including laws and regulations relating to the civil rights of its customers and employees, including those relating to Americans with Disabilities Act. The Commission Contractor must provide adequate restroom facilities that meet all state and local plumbing codes. All restrooms must be handicapped equipped. The Contractor will be responsible for providing prompt and courteous service to the public.

12. The Commission Contractor shall neither be an employee of the Division nor an agent of the State, but shall be an independent contractor governed in its relations with the Division by the terms of this contract. The Commission Contractor does not have the authority to subcontract its rights and responsibilities under this contract.

The Commission Contractor is solely responsible for the payment of all related payroll taxes and Workers Compensation, where such may be due to the United States or the State of North Carolina.

The Division shall not be responsible for the Commission Contractor's rent, transportation costs, personnel costs, office supplies, telephone, advertising, or any other of the Commission Contractor's expenses of whatever nature.

13. The Commission Contractor shall remit to the Division all monies collected for the Division. All monies so collected shall be deposited daily in the form and amounts received, except as otherwise provided by statute. Monies shall be deposited in the bank designated by the State Treasurer, in the name of the State Treasurer and shall report the same daily to the Treasurer pursuant to G.S.147-77. The Commission Contractor shall not commingle personal funds with those of the State Treasurer.

14. The Commission Contractor shall make daily reports to the Division of the activity of the LPA. In addition, the Commission Contractor shall make other reports as the Division may require. Deposits must be made daily and certified before 2:00 p.m. the following day.

15. The Commission Contractor agrees to furnish and maintain, subject to the approval of the Division, suitable office space convenient to the public, to maintain service for the public during reasonable hours, and to abide by all rules and regulations furnished to the Commission Contractor by the Division as set out in the LPA Contract and SOP.

16. The Commission Contractor must comply with the bonding requirements of G.S. 20-63.01 or any other applicable law. The bond must protect the Division against acts of theft by the Commission Contractor or its employees that shall cause a loss of State funds or a liability to the Division. The Commission Contractor agrees to furnish written proof of the existence of the bond within forty five (45) days of the execution of this contract, unless the bond is received through the Division. The Commission Contractor agrees to maintain the bond as long as this contract is in effect and shall show proof of the bond during any audits of the LPA or upon demand of the Division.

17. It is agreed that any time the Commission Contractor is not the actual manager, the Commission Contractor will designate a specific manager satisfactory to the Division, to operate the LPA, with whom the Division may deal direct, and that no change in management will be made until it has been approved by the Division.

18. The Commission Contractor remains solely responsible for all money handled by the LPA, and for the integrity of the operation of the LPA.

19. The Commission Contractor must display in a conspicuous place any information provided by the Division for the public to see. All such notices must include the fact that the LPA is privately operated, a schedule of notary fees and other charges, and the telephone number of the DMV to report any customer complaints.

IN WITNESS WHEREOF, the said parties have hereunto set their hands this the _____ day of _____, 2_____.

(Signature)
(Printed Name of Commission Contractor)
COMMISSION CONTRACTOR

Date _____ County _____ State _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

_____ (name(s) of principal(s)).

Notary Signature _____

Notary Printed or Typed Name _____

(SEAL)

My Commission Expires _____

NORTH CAROLINA DIVISION OF MOTOR VEHICLES

BY: _____

(Authorized signing Agent)

**STATE OF NORTH CAROLINA
DIVISION OF MOTOR VEHICLES
LEASE AGREEMENT FOR EQUIPMENT IN LICENSE PLATE AGENCY**

New Contract Temporary Contract Renewal contract

This LEASE AGREEMENT is made and entered into this 1st day of October, 2012, by and between the Division of Motor Vehicles of the State of North Carolina, acting by and through the Commissioner of Motor Vehicles, pursuant to authority vested in it by the Subsection (h) of Section 20-63 of the General Statutes of North Carolina (hereinafter Division) and Yancey County 14 Town Square Burnsville, NC 28714 (name and address of Commission Contractor) (hereinafter Commission Contractor), for the equipment listed in Schedule A attached hereto. This lease agreement is in addition to the License Plate Agency (hereinafter "LPA") Contract between the parties and is a lease for the equipment owned by the Division which the Commission Contractor will use to operate the License Plate Agency.

WHEREAS, it is the desire of the Division to lease to the Commission Contractor the necessary equipment required in order to properly and efficiently serve the citizens of North Carolina at the Yancey County, North Carolina, LPA as set forth in the License Plate Agency Contract.

WHEREAS, the Commission Contractor has an existing binding LPA Contract with the Division and has agreed to operate the LPA and leased equipment, in accordance with the terms of this contract and the "Standard Operating Procedure".

Now, **THEREFORE**, in consideration of the premises and the covenants hereinafter set forth, the parties hereto agree as follows:

1. **TERM:** This Agreement is effective from 10-1-2012 and runs in conjunction with the LPA Contract between the parties. This agreement is terminated effective immediately at the termination, for any reason by either party, of the LPA Contract.
2. **CONSIDERATION:** The Commission Contractor agrees to pay a monthly lease rate as listed in Schedule A of this lease agreement. The monthly lease rate shall be calculated at the beginning of the lease agreement and shall remain the same throughout the duration of this lease agreement. The monthly lease rate shall be one forty-eighth (1/48th) the value of the equipment listed in Schedule A.

The first monthly lease rate payment will be due within thirty (30) days of both the installation of the leased equipment and the opening of the LPA for business under the LPA Contract. In determining the amount due for the first payment wherein the LPA does not open in the first five (5) calendar days of the calendar month, the first payment shall be prorated for calendar days the LPA received leased equipment from the Division and was open for business under the LPA Contract.

The Parties agree the monthly lease rate payments due to the Division for the leased equipment may be electronically transferred from the compensation check the Division pays to the Commission Contractor each month for services performed by the License Plate Agency under the LPA Contract.

If electronic transfer is not available to the Parties, the Commission Contractor will be invoiced monthly by the Division for the monthly lease rate. The monthly lease rate will be due according to the date provided on the invoice sent to the Commission Contractor. The Division shall collect the monthly lease rates pursuant to G.S. 147-86.21 and will charge interest and penalties according to G.S. 147-86.23.

Upon termination of the LPA Contract, the Commission Contractor shall pay a prorated monthly lease rate if the termination occurs during a calendar month wherein a full monthly lease rate is not applicable. The Commission Contractor shall pay for all calendar days the Commission Contractor was in possession of the leased equipment until the calendar date of notice of termination as dictated under the LPA contract.

3. ASSIGNMENT: The lease agreement may not be assigned by either party, except as required by state or federal law.

4. AGREEMENT TERMINATION: The lease agreement shall be deemed terminated immediately upon the termination of the coinciding License Plate Agency Contract.

5. DEFAULT AND REMEDIES:

DEFAULT: Failure by either party to perform according to the terms of this Agreement except for reasons beyond the control of the party will constitute an event of default under this Agreement.

REMEDIES: In the event of default as specified above, failure by the Commission Contractor or the Division to remedy such default within a period of thirty (30) days from receipt of written demand by either party, the Commission Contractor or the Division may, at its respective option as may be applicable, take the following actions:

- a. Continue to negotiate performance; and/or
- b. Terminate said Agreement and return all equipment back to the Division

6. INSTALLATION AND MAINTAINANCE: The Division agrees to install, maintain, and update equipment that is subject to the lease at no additional charge.

7. EQUIPMENT RETURN: The Commission Contractor agrees to allow the Division to reclaim the equipment at any time for any reason.

8. MISUSE OF EQUIPMENT: The Commission Contractor will remain liable for all misuse of the equipment at issue.

9. REPLACEMENT EQUIPMENT: The Division will replace as it deems necessary all equipment that is worn out and/or obsolete. If the Division replaces any of the leased equipment, it will issue a new Schedule A and recalculate the monthly lease rate due to the Division at the rate of one forty-eighth ($1/48^{\text{th}}$) of the value of the current inventory of the then leased equipment as calculated above. If due to changes in technology or methods of operations more or less equipment is necessary, the Division will install and/or de-install the equipment as necessary and issue a new Schedule A reflecting the new monthly lease rate. Payment for the new monthly lease rate will be due the first full month following the issuance of the new Schedule A.

10. INSPECTION: The Commission Contractor will allow the Division to enter the premises where the equipment is located on demand for the purposes of inspecting, maintaining, upgrading or removing the equipment and determining whether the Commission Contractor is in compliance with its responsibilities.

11. **TITLE:** Title to the equipment will remain with the State of North Carolina, Division of Motor Vehicles.

12. **PERSONAL PROPERTY:** The equipment will remain personal property.

13. **WARRANTIES AND REPRESENTATIONS OF THE DIVISION:** The Division represents and warrants to the Commission Contractor that the equipment will serve its intended purpose and will repair or replace the equipment within a reasonable time if it fails for any reason not related to misuse, theft, or failure of the Commission Contractor to properly safeguard or care for the equipment. The Division will not be responsible for consequential or other damages due to equipment loss, failure, malfunction, or improper installation, including but not limited to loss of revenue, or injury to the Commission Contractor and or its employees.

14. **RISK OF LOSS OR DAMAGE:** Unless otherwise indicated, risk of loss or damage shall be on the Commission Contractor after the date of delivery and until the date of return.

15. **SEVERABILITY:** In the event any portion of this Lease Agreement shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable, such provisions shall be deemed void and the remainder of this Lease Agreement shall continue in full force and effect.

16. **ALTERATIONS AND ATTACHMENTS:** An alteration is defined as any change to the equipment which deviates from the equipment manufacture's design whether or not additional devices or parts are required. An attachment is defined as an interconnection to the equipment not supplied by the Division. An alteration or attachment to a machine may be made only upon approval by the Division. The Commission Contractor further agrees to remove any alteration or attachment and to restore the equipment to its normal, unaltered condition prior to its return to the Division, or upon notice from Division that the alteration or attachment creates a safety hazard, renders maintenance of the machine impractical, or for any other reason.

17. **USE:** The Commission Contractor shall comply with all applicable federal, state, and local statutes, rules and regulations governing the use, operation, or maintenance of the equipment, including rules and regulations under the Occupational Safety and Health Act and similar state, county and local laws and regulations. The equipment may be used only by the Commission Contractor and or its employees to provide the services that are subject to the LPA Contract. Any other use of the equipment may be deemed cause for Division to terminate the contract.

18. **GOVERNING LAWS:** This Agreement shall be construed in accordance with and governed by the laws of the State of North Carolina. The venue for any disputes arising from this lease or the equipment subject to the lease will be Raleigh, North Carolina.

WITNESS WHEREOF, the said parties have hereunto set their hands this the ____ day of _____, _____, executed this agreement in duplicate originals, one of which is retained by each of the parties.

_____ (Printed Name) _____ (Signature)
COMMISSION CONTRACTOR

Date _____ County _____ State _____

I certify that the following person(s) appeared before me this day, each acknowledging to me that the he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

_____ (name(s) of principal(s))

Notary Public
My Commission Expires: _____

NORTH CAROLINA DIVISION OF MOTOR VEHICLES

Authorized Agent
Rev: 4/6/2009

Date Authorized