

**Land of Sky Regional Council
April 23, 2014
Regular Meeting**



Please mute all electronic device, including cell phones, laptops, tablets, and recorders. Also, Council members are requested to state their names when making or seconding motions. Thank you!

AGENDA

- I. Call to Order**
- II. Invocation**
- III. Pledge of Allegiance**
- IV. Roll Call**
- V. Modification and Approval of Agenda**
- VI. Kathleen Godwin Cole Award Ceremony**
- VII. Public Comment**
- VIII. Recognition of Special Guests**
- IX. Chairman's Comments and Roundtable**
- X. Approval of Minutes from the March regular meeting**
- XI. Consideration and Approval of Consent Agenda Items:**
 - A. March FY 2013/14 Treasurer's Report
 - B. Budget Amendment #4
- XII. Presentations/Recognition**
 - A. Senior Tar Heel Legislature/Older Americans Month – Charles Dickens
 - B. Brownfields Program – Kate O'Hara
- XIII. Old Business**

XIII. New Business

- A. APEX Technical Service Contract
- B. Appalachian Regional Commission Grant Application
- C. Audit Contract Approval

XIV. Executive Director's Report

XV. Important Dates

XVI. Adjournment



COUNCIL AGENDA ITEM FORM

Subject: Kathleen Godwin Cole Award Ceremony

Item Number: V. Kathleen Godwin Cole Award Ceremony

Responsible Party: LeeAnne Tucker & Patti Cameron

Attachment(s): None

Background: The Volunteer Services Department is honored to present the Kathleen Godwin Cole Award. This award is given annually to one Land of Sky Regional Council volunteer, aged 55 or better, who has made a major contribution to our region. All nominees will be recognized at the awards presentation.

We are appreciative of the efforts of all of our volunteers who help make a positive impact through their service to our communities.

Staff No action requested.

Recommendation:

Suggested Motion(s): None.



COUNCIL AGENDA ITEM FORM

Subject: March Council Meeting Minutes

Item Number: X. Approval of Minutes from the March Regular Meeting

Responsible Party: Mariah Landy, Administrative Programs Specialist

Attachment(s): Minutes from meeting on March 26, 2014

Background: Attached is the March 2014 Council meeting minutes.

Staff Recommendation: Recommend acceptance of the March meeting minutes.

Suggested Motion(s): Approval of the March meeting minutes.

**Meeting of
Land-of-Sky Regional Council
March 26, 2014**

MINUTES

- I. Call-to-Order – Bob Davy called the meeting to order.
- II. Invocation – George Goosmann
- III. Pledge of Allegiance
- IV. Roll Call – Bob Davy called the roll and the following members were present: Denise Braine, Glen Engram, Wayne Brigman, John Mitchell, Esther Manheimer, George Goosmann, Ryan Stone, Anne Coletta, Albert Gooch, Bob Davy, Dona Mennella, Charles Dickens, Kathe Harris, Mark Burrows, George Morosani, and Brenda Mills. Other guests included Nelson Smith, Judge Harry Martin, Matthew Martin, and Colin McCormick.
- V. Election/Appointment of Executive Committee, Officers, and At-Large Board Members –
The 2014 Nominating Committee presented membership recommendations for the Executive Committee, officers and at-large Council members. Recommendations included Ellen Frost, Dona Mennella, Wayne Brigman, Mike Hawkins, George Goosmann, Charlie Landreth, Simone Bouyer, Gene Knoefel, John Mitchell, Lawrence Ponder, and Brian Shelton for 2014-15 Executive Committee members. Officer recommendations included: George Goosmann for Chairman, Ellen Frost for 1st Vice-Chair, Charlie Landreth for 2nd Vice-Chair, Mike Hawkins for Secretary, and Wayne Brigman for Treasurer. At-large minority representatives included Brenda Mills representing Buncombe County and Simone Bouyer representing Madison County. The Board is still searching for representatives from Henderson and Transylvania Counties. George Morosani made a motion to approve the 2014 Nominating Committee's recommendations and Mark Burrows seconded the motion, which was carried unanimously and without further discussion.
- VI. Induction of Land of Sky Officers –
Inductees were sworn into their positions as officers of Land of Sky's Board, as presented by the honorary Judge Harry Martin. Bob Davy personally thanked Land of Sky staff and Council for all of their assistance. George Goosmann proceeded to the regular meeting as the newly inducted Chairman of the Board.
- VII. Public Comment –
- VIII. Recognition of Special Guests –
George Goosmann recognized Judge Martin, who has been a resident of Biltmore Forest for many years, and is the only resident who used to pay rent to the town, which was back in the 1940's for a room above the Public Works Department for \$25 a month. Harry Martin, who is 94 years old, a retired Supreme Court Justice and very active in the community, honored the Board by commencing the Oath for new Board members. Mr. Goosmann shared his appreciation and thanked Judge Martin for being a part of the meeting.
- IX. Chairman's Comments & Roundtable –
Mark Burrows shared that Transylvania County is still in the process of determining an economic development strategic plan. Mr. Burrows also shared that Carolina West will be hosting an elected officials forum with manufacturers in a panel discussion on April 29, 2014 at Biltmore Park Hilton. The region's economic developers will be sending out information about this event to elected officials shortly. Dona Mennella shared that Laurel Park started constructing their new ten year comprehensive plan last month with the assistance of Land of Sky staff. Charles Dickens discussed that the Advisory Council on Aging will meet on Thursday, April 10, 2014 at 10:00am at the Mars Hill Library. Mr. Dickens also shared that Dennis Streets, the Director of

Aging and Adult Services in North Carolina, has announced his retirement. Mr. Streets will become the Head of the Council on Aging in Chatham County. Mr. Dickens shared that Mr. Streets will be missed and will be very difficult to replace. Alan Lamberson of Madison County discussed a hiking event called "Walk Off the War", taking place in Hot Springs on April 12th for area veterans. Mr. Lamberson also shared that policy surveys have been mailed out to gain feedback towards the County's master plan for Parks and Recreation with a goal to complete the project by January 2015. Ryan Stone announced that Black Mountain has found a new Planning Director, Josh Harold, who will be serving on the TCC and the Housing Consortium. Bob Davy shared that Fletcher is hosting their Annual Easter Egg Hunt on the afternoon of April 12th, 2014, which is the town's biggest event of the year. Mr. Davy also shared that the Town of Fletcher received a handwritten letter of appreciation and a check donation for the Town's park from a gentleman who does not live in Fletcher, but uses their park often, and who wanted to help cover some of the expenses for the park. George Goosmann shared that Biltmore Forest has received 89 qualified resumes in their search for a replacement for Nelson Smith, and have whittled down the list to 11 candidates who will be further narrowed down to three top candidates by next week for Biltmore Forest's new Town Manager. Esther Manheimer shared that the City of Asheville hired a new Attorney, Robin Currin, who hails from Raleigh and is one of NC's top 50 attorneys. Also in Asheville, the City Council and County Commissioners all agree on a resolution for the I-26 corridor project, which will go through the City of Asheville and across the Jeff Bowen Bridge. City officials, Jan Davis, Mark Hunt, Joe Belcher, and Holly Jones worked with the DOT to come to an agreement and David Gantt and Mayor Manheimer spoke with the Secretary of Transportation in NC to highlight how the community had come together while working on this project in hopes that it would take priority with the State. Asheville is also in the process of transferring the Ag Center property over to the Ag Department, which is currently owned by the City. Anne Coletta shared that Flat Rock will be starting their budget process and that work on the Flat Rock Park is still ongoing and that there is a position available for a Director of Development position who will oversee marketing and fundraising for the Park. This position will close on April 12, 2014. Glen Engram discussed that Henderson County started their budget process last month but there is a small distraction due to the three Council members who are up for re-election this year and the primary election campaign is underway. The County is also looking forward to receiving the results of the DOT Tourism studies. Kathe Harris shared that the Senior Volunteer Services are really excited about the upcoming National Volunteer Week and the Kathleen Godwin Cole Awards and encouraged everyone to submit their nominations by April 1st. Brenda Mills discussed Asheville's upcoming Reverse Vendor Fair on April 9th and morning training session geared towards the business of public contracting. John Mitchell shared that Henderson County's Commissioners accepted a new County flag.

- X. Minutes of Meeting from February 26, 2014 meeting – February Council meeting minutes were made available at the meeting. Kathe Harris made a motion to approve the minutes and Wayne Brigman seconded the motion. The motion was carried unanimously and without further discussion.
- XI. Modification and Approval of Agenda – Charles Dickens made a motion to accept the Agenda and Bob Davy seconded the motion. The motion was carried unanimously and without further discussion.
- XII. Consideration and Approval of Consent Agenda Items: Including, A. February FY 2013-14 Treasurer's Report and B. WRP EPA Learning Assessment: Phase II. Mark Burrows made a motion to accept the consent items and George Morosani seconded the motion. The motion was carried unanimously and without further discussion.
- XIII. Presentations/Recognition – The former Chairman of the Board, Bob Davy, was presented with a Certificate of Appreciation by the Board, for his dedication and service over the last year. Mr. Davy shared that his time as Chairman was a wonderful experience.
- XIV. Old Business –

XV. New Business –

A. WRP – Agricultural Plastic Project Tobacco Trust Fund Proposal –

At the request of the NC Nurseryman and Landscaper Association (NCNLA), WRP has been working to attract recycling service providers to collect waste plastics discarded by farms. WRP is leading a grant proposal to help expand recycling opportunities for discarded agricultural plastics in North Carolina, which will improve farm efficiency, cost savings and revenue for tobacco growers. This two-year project will divert 6,660 tons of agricultural plastics from landfills and create \$2,095,000 in disposal savings, material revenues and sales increases. The proposed contract amount includes \$192,000 in Tobacco Trust Funds with an in-kind match of \$90,200 from WRP and project partners, including NCDENR, USDA, private businesses, and grower associations. Mark Burrows made a motion to approve this proposal and George Morosani seconded the motion. The motion was carried unanimously and without further discussion.

XVI. Executive Director's Report – LeeAnne Tucker provided the Executive Director's Report to the Board.

A. New Council Member Orientation – Land of Sky will be hosting a new member orientation on April 23rd, 2014, to acclimate new Council Members to LOS policies and procedures.

B. National Volunteer Week and the Kathleen Godwin Cole Award – Chairman Goosmann read the Volunteer Proclamation to the Board, which introduced National Volunteer Week from April 6 - April 12, 2014. This week honors all of the volunteers who serve in the region through the Foster Grandparent Program, the Retired and Senior Volunteer Program, and the Senior Companion Program. These volunteers served over 215,500 hours in community schools, child care centers, senior centers, and numerous other non-profit organizations. George Goosmann read the Volunteer Week Proclamation to the Board and signed his support. The Volunteer Services Department further honors their volunteers by presenting the Kathleen Godwin Cole Award to a deserving volunteer who has made an impact on senior adults in the community. Nomination forms were provided to the Board and the Award Ceremony will take place immediately prior to the next regular Council meeting on April 23, 2014.

XVII. Adjournment –George Goosmann moved to adjourn the meeting and Wayne Brigman seconded the motion. The motion was carried unanimously and the meeting was adjourned without further discussion.



COUNCIL AGENDA ITEM FORM

Subject: March 2014 Treasurer's Report

Item Number: XI. Consent Agenda, A

Responsible Party: Peggy Barnes, Finance Director

Attachment(s): March 2014 Report (Spreadsheet)

Background: Attached is the March 2014 Treasurer's Report. The report outlines year-to-date revenues and expenditures. Also included is cash balance information, fund balance reporting, and member dues information.

Staff Recommendation: Recommend acceptance of March 2014 Treasurer's Report.

Suggested Motion(s): The Treasurer's Report, if not pulled, will be accepted as part of the motion to approve the Consent Agenda.

Treasurer's Report, March 2014

YTD Report of Receipts & Expenditures	Amount	% of Budget
Total Annual Budget	13,855,718	
Year-to-Date Revenues	9,377,242.96	67.68%
Year-to-Date Expenditures	(9,312,559.30)	67.21%
Grant/Contract Cash Balance	<u>64,683.66</u>	
Year-to-Date Target Percent		75.00%

Cash Balance Report

Total Cash Balance at 03/01/14	1,066,344.52
Cash Received during March	982,406.61
Cash Expenditures for March	<u>(950,200.91)</u>
Total Cash Balance at 3/31/14	<u>1,098,550.22</u>

Fund Balance Report audited @ 6/30/13

Unassigned	319,448.00
Stabilization by State Statute	617,348.00
Total Fund Balance	<u>936,796.00</u>

Assessments (Dues) Report

YTD Billed to Member Governments, 3rd quarter	163,168.50
Collected to Date	<u>(163,168.50)</u>
Balance Due	<u>0.00</u>



COUNCIL AGENDA ITEM FORM

Subject: FY 2014 Budget Amendment #4

Item Number: XI. Consent Agenda, Item B.

Responsible Party: Peggy Barnes

Attachment(s): Budget Amendment #4

Staff Recommendation: Approval

Suggested Motion(s): Motion to adopt

XI. Consent Agenda
B. FY2014 Budget Amendment #4

Background

This budget amendment reflects new contracts and awards for FY2014 as well as adjustments to contracts or grants that cross FY2013 and FY2014. Total FY 2014 Budget, including this amendment, is \$14,213,461.

General Fund	FY 2014	Source	Amount per Source	Total per Grant	Notes
403GEN	LOSRC Leicester Crossing, Usage Allow, Rents Rec'd	Internal	8,415		rents rec'd
		Internal	192,585	201,000	indirect cost contribution
408GEN	Leicester Crossing, Leasehold Improvements			12,220	reduce required match for grants
Total General Fund				213,220	
Special Revenue Fund					
455	Town of Black Mountain TA	Loc/Priv		4,400	add'l Technical Assistance provided
210	Workforce Investment Act-Administration	Federal		23,194	additional funding
220	WIA Adult Program	Federal		(62,428)	Adjust carryover
222	WIA Adult-Business Services	Federal		92,000	Additional funding
230	WIA Dislocated Worker Program	Federal		16,803	Carryover from year 2
237	WIA IWP	Federal		7,261	additional funding
240	WIA Youth Program	Federal		1	Correct carryover
522	Aging-Fan/Health Relief	Loc/Priv		5,020	New contributions>NC DHHS
546	Buncombe Co - Minority Health Collaboration	State		(1,566)	Correct award amount
574	Volunteer Svcs Fund-raising	Loc/Priv		25	Additional funding
573	RSVP FYE 3/31/14 FY 14 #573	Federal		643	Additional funding
575	RSVP FYE 3/31/15 FY 14 #575	Federal		9,089	Additional funding
621	MyPlace,Inc Leveraged/Match Program Expenses	Inkind		1,935	Required Match
720	CDBG-Henderson Co Catalyst, Dodd-Meadows	Federal		5,240	Increase current funding
745	NCRC-Mars Hill, Clean Water Suppl Ph II & III	State		228	Correct carryover
772	Community Dev/Housing Rehab Fee for Service	Loc/Priv		1,644	Additional fee for service
800	Clean Air Campaign	Loc/Priv		2,542	Additional Sponsor contributions
820	State Energy Office - Clean Cities	Federal		30,000	New award
824	NCSU-DOE AFIT Alternative Fuel Implementation	Federal		15,000	additional funding
355	WRP - Private Contributions	Loc/Priv		11,447	Additional fee for service
361	WRP-EPA Hospitality Phase II	Federal		2,789	Correct carryover
369	WRP-TJCOG NCDENR-DAQ Energy Assmnt	State		25,000	New award
915	Bike Maps	Loc/Priv		256	Correct carryover
931	Bunc Co Mountain Mobility Pass-Thru	Loc/Priv		5,000	Add'l Mountain Mobility activity
932/933	Bunc Co Transportation RIDE	Federal		18,000	Add'l Mountain Mobility activity
952	French Broad MPO	Local		(69,000)	Correct required match
Total Special Revenue				144,523	
Total Budget Amendment #4				357,743	

Action Needed

Adopt Budget Amendment Resolution #4 for General Funds and Special Revenue Funds.

Recommendation

Approval

Staff Responsible

Peggy Barnes



COUNCIL AGENDA ITEM FORM

Subject: Senior Tar Heel Legislature Presentation

Item Number: XII. Presentation/Recognition, A.

Responsible Party: LeeAnne Tucker

Attachment(s): 1. Senior Tar Heel Legislature 2014 Priorities

Background: The North Carolina Senior Tar Heel Legislature was created by the North Carolina General Assembly with the passage of Senate Bill 479 in July of 1993.

The Senior Tar Heel Legislature was created to:

- Provide information to senior citizens on the legislative process and matters being considered by the North Carolina General Assembly.
- Promote citizen involvement and advocacy concerning aging issues before the North Carolina General Assembly.
- Assess the legislative needs of older citizens by convening a forum modeled after the North Carolina General Assembly.

Each of the 100 North Carolina counties is entitled to one delegate to the Senior Tar Heel Legislature. Most counties also have an alternate delegate. Delegates and alternates must be age 60 or older. The North Carolina Division of Aging and Adult Services provides staff support for the Senior Tar Heel Legislature in cooperation with the 16 Area Agencies on Aging, which are responsible for conducting the selection of delegates and alternates.

Local delegates and alternates in Region B include:

- Buncombe County Delegate - Charles Dickens
- Buncombe County Alternate - Ann Bass
- Henderson County Delegate - Calvin Titus
- Madison County Delegate - LinDa Campbell
- Transylvania County Delegate - Delores Stroup

Staff Recommendation: No action requested.

Suggested Motion(s): None.

FACT SHEET

North Carolina Senior Tar Heel Legislature 2014 Legislative Priorities

Funding for HCCBG. STHL shall urge the NC General Assembly to appropriate additional recurring funds of at least \$7 million to meet the needs of the rapidly growing older adult population and the coming tsunami of baby boomers over the next 20+ years.

- The age 60+ population is projected to grow by 171% by 2030 when the youngest baby boomer will be age 65.
- We are rapidly falling behind providing needed services given the stagnant current funding levels.
- Home and Community based services support services that help impaired older adults stay in their homes longer where they are happiest, and at less public cost.
- There are approximately 16,000 people currently on the waiting list for Home and Community Care Block Grant services.

Maintain Funding for Senior Centers. Senior centers provide programs and services that enhance the health and wellness of older adults and support their efforts to remain independent. The 160 senior centers currently in operation or under development serve 96 counties. Maintaining funding would enable those senior centers to continue their services to meet the needs of a growing population of older adults.

Restore Funding to Sustain Project C.A.R.E.: Hailed as innovative and cost effective, Project C.A.R.E. (Caregiver Alternatives to Running on Empty) was designed and tested in North Carolina. It has become a national best practice model for providing respite services to family members who are caring at home for a relative with Alzheimers Disease or related dementia. The number of North Carolinians afflicted with these dementias, now approximately 170,000, will continue to rise. When families are helped to keep loved ones at home longer, less time may be required for any institutional care. Resulting savings in public funds are substantial. We recommend that sufficient recurring funds be provided to extend Project C.A.R.E. to all 100 counties by July 1, 2015 or as soon thereafter as practicable.

Ratio of CNAs to Residents in Nursing Homes. In a nursing home, the quality of care each resident receives is largely dependent upon the one-on-one care provided by CNAs. Studies have shown that facilities with a higher CNA staffing ratio have fewer health care deficiencies, lower hospitalization rates and fewer government cited deficiencies. The health and safety of residents is compromised when the facility is understaffed. Residents are at a higher risk of receiving poor care and being victims of abuse when the staff is unable to respond adequately to patient needs. We urge the General Assembly to mandate an increase in the Standardized HPPD (hours per patient daily) thereby requiring a higher CNA staffing ratio be established to ensure a better quality of care for residents in Nursing Homes.

Strengthen and Fund North Carolina's Adult Protective Services Program. The Adult Protective Services (APS) program must be strengthened and funded to respond to North Carolina's rapidly growing aging population. We recommend that the General Assembly appropriate funds to assess proposed changes to the APS statutes. This should include the implementation of the Vulnerable Adult Protection System (VAPS) for the state and re-instate \$2 million in the state budget to meet the growing need for Adult Protective Services in North Carolina.

FACT SHEET

North Carolina Senior Tar Heel Legislature

The North Carolina Senior Tar Heel Legislature was created by the North Carolina General Assembly with the passage of Senate Bill 479 in July of 1993.

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- Promote citizen involvement and advocacy concerning aging issues before the North Carolina General Assembly.
- Assess the legislative needs of older citizens by convening a forum modeled after the North Carolina General Assembly.

Each of the 100 North Carolina counties is entitled to one delegate to the Senior Tar Heel Legislature. Most counties also have an alternate delegate. Delegates and alternates must be age 60 or older. The North Carolina Division of Aging and Adult Services provides staff support for the Senior Tar Heel Legislature in cooperation with the 16 Area Agencies on Aging, which are responsible for conducting the selection of delegates and alternates.

Mary Edwards of the Division of Aging and Adult Services is the principal staff aide and can be contacted at Mary.Edwards@dhhs.nc.gov.

For more information about the North Carolina Senior Tar Heel Legislature, please contact your county's Delegate or Alternate:

Buncombe County Delegate

Charles Dickens
4 Arrow Place
Asheville, NC 28805
(828) 298-7501

Henderson County Delegate

Calvin Titus
1 North Charles Lane
Hendersonville, NC 28792
(828) 696-9181

Transylvania County Delegate

Delores Stroup
290 Pine Mountain Trail
Brevard, NC 28712
(828) 862-8500

Buncombe County Alternate

Ann Bass
85 Red Oak Lane
Alexander, NC 28701
(828) 645-8154

Madison County Delegate

LinDa Campbell
31 Pine Ridge Road
Mars Hill, NC 28754
(828) 689-3598



COUNCIL AGENDA ITEM FORM

Subject: Older Americans Month

Item Number: XII. Presentations/Recognition, A.

Responsible Party: LeeAnne Tucker

Attachment(s): Older Americans Month Proclamation

Background: Land of Sky recognizes Older American Month during the month of May, 2014, and encourages every resident within Buncombe, Henderson, Madison, and Transylvania counties to recognize older adults as people who serve and support them as powerful and vital individuals who greatly contribute to the community.

Staff Recommendation: Chairman signature of the Older Americans Month Proclamation.

Suggested Motion(s): None



A PROCLAMATION

WHEREAS, Buncombe, Henderson, Madison and Transylvania Counties, known as Region B, includes 108,000 citizens ages 60 and older; and

WHEREAS, Land of Sky Regional Council is committed to helping all individuals live longer, healthier lives; and

WHEREAS, the older adults in Region B have made countless contributions and sacrifices to ensure a better life for future generations; and

WHEREAS, we recognize the value of injury prevention and safety awareness in helping older adults remain healthy and active; and

WHEREAS, our community can provide opportunities to enrich the lives of individuals young and old by:

- Emphasizing the need to take action to safeguard themselves from unintentional injuries where they live, work and socialize
- Providing information on avoiding leading causes of injury for older adults – falls, motor vehicle-related incidents, suffocation, medication overdose, and fire/burns
 - Helping older adults take control of their safety and wellbeing

NOW THEREFORE, I, **Chairman George Goosmann, III** do hereby proclaim May 2014 to be Older Americans Month. Land of Sky Regional Council urges every resident to take time this month to recognize older adults and the people who serve and support them as powerful and vital individuals who greatly contribute to the community.

Dated this 23rd day of April, 2014

BY _____



COUNCIL AGENDA ITEM FORM

Subject: Brownfields Presentation

Item Number: XII. Presentations/Recognition, B.

Responsible Party: Erica Anderson & Kate O'Hara

Attachment(s): Handout

Background: Kate O'Hara, Senior Planner- Brownfields will give a brief presentation on the Environmental Protection Agency's Brownfields Program and the FY 2015 application process

Staff Recommendation: No action requested.

Suggested Motion(s): None.



COUNCIL AGENDA ITEM FORM

Subject: APEX/PTRC Contract

Item Number: XIII. New Business, A.

Responsible Party: Josh King and Erica Anderson

Attachment(s): Draft Contract

Background: In the Fall of 2014 Land of Sky Regional Council was asked to be a subcontractor on a brownfields project proposal for the Piedmont Triad Regional Council of Governments. After a short review period the Land of Sky/APEX Companies proposal was selected as one of the two consulting teams to be working on the project. The initial contract would carry Land of Sky as a subcontractor to the APEX Companies through the end of the grant. The initial contract amount is \$9,500 through September 30, 2014. Subsequent contract addendums will have varying dollar amounts.

Staff Recommendation: Authorization for the Executive Director to execute the contract

Suggested Motion(s): I hereby move to authorize the Executive Director to execute this contract between Land of Sky Regional Council and APEX Companies.

LAND-OF-SKY REGIONAL COUNCIL

Technical Service Contract

THIS AGREEMENT, made this the 23rd day of April, 2014 by and between Land-of-Sky Regional Council (hereinafter called the "Council") and the Apex Companies, LLC , (hereinafter called the "Company").

WITNESSETH

WHEREAS, the Council operates to provide planning and technical assistance to local governments in Region B; and

WHEREAS, Council has assisted municipalities, Councils of Government, and non-profits outside Region B upon request and after consultation with the client's regional council; and

WHEREAS, Apex Companies, LLC, (The Company) has entered into a technical services contract with Piedmont Triangle Regional Council to provide assistance for the management and implementation of the Brownfields Assessment Grant; and

WHEREAS, Apex Companies, LLC has requested specific technical assistance from Land of Sky Regional Council's Regional Brownfields Initiative;

NOW, THEREFORE, the Council and the Company mutually agree to the following:

1. **Employment and Scope of Work**

The Company hereby agrees to engage the Council and the Council agrees to perform in a satisfactory and proper manner the work as described in the detailed "Proposal for Technical Services" set forth in Exhibit A, attached hereto, and by this reference made a part hereof.

2. **Length of Contract**

The work of the Council shall commence on April 14th, 2014 and shall be undertaken and completed in such sequence as to assure expeditious completion in light of the purposes of this Contract; but, in any event, the work required herein shall not extend beyond the 30th of September, 2016.

3. **Assignability**

The Council shall not assign any interest in this Contract, and shall not transfer any interest in the same whether by assignment or substitution, without the prior written consent of the Company, or unless specifically contained in the Proposal for Technical Services attached hereto.

4. **Compensation and Method of Payment**

This contract is on a fee- for - services basis, plus mileage. Under the fee- for - services approach, the Council will bill the Company for the amounts accrued for the activities outlined in approved task orders. The scope and not to exceed costs shall be outlined in the signed task orders.

The Council will issue an invoice to the Company at least monthly detailing the Council's cost of work performed and associated travel costs for the prior time. The Company will issue a check to the Council upon receipt of payment from Piedmont Triad Council of Governments.

5. **Termination of Contract for Cause**

If, for any cause, the Council shall fail to fulfill in a timely and proper manner its obligations under this Contract, or, if the Council shall violate any of the covenants, agreements, or stipulations of this Contract, the Company shall, thereupon, have the right to terminate this Contract by giving written notice to the Council of such termination fifteen days before such effective date. During the fifteen day notification period, the Council shall have the opportunity to remedy any failures or violations to avoid termination of the Contract. If termination occurs, the Council shall be entitled to receive just and equitable compensation for all satisfactory work completed.

6. **Changes**

The Company may from time to time request changes in the scope of

work or services to be performed by the Council hereunder. Such changes, including any increases or decreases in the Council's compensation, which are mutually agreed upon by and between the Company and Council, shall be incorporated as written amendments to the Contract.

7. **Records**

The Council shall maintain financial records pertaining to this Contract for three years after final settlement of the Company or until cleared by audit.

8. **Access to Records**

The Council shall have access to appropriate records on file at the Company or Piedmont Triad COG which are necessary for Council staff to fulfill the terms of this Contract.

9. **Interest of Contractor**

The Council covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. The Council further covenants that in the performance of this contract no person having any such interest shall knowingly be employed.

10. **Findings Confidential**

Any reports, information, data, etc., given to or prepared or assembled by the Council under this contract which the Company requests to be kept confidential shall not be made available to any individual or organization other than the Company, unless the Council is required by law to make said item or items available.

11. **Complete Agreement**

This Contract contains the complete agreement of the Parties and may not be modified in any respect except by written amendment hereto.

12. **Applicable Laws**

The Parties agree that this document is to be governed, construed, and enforced in accordance with all of the laws of the State of North

Carolina, and with federal laws and regulations required by the Environmental Protection Agency cited herein.

13. **Indemnification**

- a. To the extent allowed by law, the Council agrees to indemnify, hold harmless and defend the Company as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of the Council or its employees or agents in performing or failing to perform any of its obligations under this Agreement.
- b. To the extent allowed by law, the Company of agrees to indemnify, hold harmless and defend the Council as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of the Company or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

14. **Nondiscrimination Clause**

No persons in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.

15. **Age Discrimination Clause**

No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

16. **Nondiscrimination on the Basis of Handicap**

No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

17. Lobbying Clauses

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

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

18. With respect to operations performed under or incident to this Agreement, Subcontractor further agrees to obtain and maintain insurance acceptable to Company which is primary as to any other existing, valid and collectible insurance, and except for workers' compensation and employers' liability insurance, names Company, Client, each of their respective principals, members, partners, successors, assigns and legal representatives as an additional insured with a cross liability clause (severability of interest). Subcontractor shall provide such insurance at its sole cost and expense. Such insurance shall include all of the insurance coverages that Company is required to maintain under the Prime Contract Documents which is stated as the following: "The Consultant's aggregate liability hereunder shall not exceed one million dollars." .

19. Kathy Roush will be the contact for the Council staff working under this contract. Council staff will keep the Company informed as to their progress. The Council will provide day to day supervision of staff assigned to this project but it is the responsibility of Company to review and approve all contract products.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on the day and year first above written.

Apex Companies, LLC

Land-of-Sky Regional Council

By: _____

By: _____

Title: _____

Title: Executive Director

Attest: _____

Attest: _____

EXHIBIT A

Task Order 1

Technical Assistance with the development of the Community Engagement Plan

Assistance with the preparation of Outreach materials

Participation in three (3) public outreach events

Participation in three (3) Brownfields Advisory Group meetings and one (1) Kickoff meeting

The Council will bill the Company for mileage at \$0.560 per mile or other mileage rate in effect at the time of service.

Total *estimated* mileage cost: 7 (Seven) trips x 220 miles x \$0.560 = \$ 863

Total Estimated Contract Cost: Not to exceed \$ 9,500



COUNCIL AGENDA ITEM FORM

Subject: Appalachian Regional Commission Grant Application

Item Number: XIII. New Business, B.

Responsible Party: Josh King, Paul Black, and Erica Anderson

Attachment(s): (Grant pre app available in meeting)

Background: Land of Sky Regional Council, as Lead Planning Agency for the French Broad River MPO is seeking additional funds to begin implementation of a Transportation Demand Management Study (TDM) the MPO completed in 2013. The grant pre-application is going to the Appalachian Regional Commission to cover the match Land of Sky and the FBRMPO need to start implementation of a carpool/vanpool matching service and begin working with local business on transportation options for their employees. More information is available on the FBRMPO website: <http://www.fbrmpo.org/tdm>

Staff Recommendation: Authorization for the staff to submit the grant pre application and explore other potential sources of match

Suggested Motion(s): I hereby move to authorize Land of Sky staff to submit this grant pre-application and continue to explore funding sources to implement the results of the TDM study



COUNCIL AGENDA ITEM FORM

Subject: Audit Contract Approval

Item Number: XIII. New Business, Item C.

Responsible Party: Peggy Barnes

Attachment(s): Council Memo for Audit Contract Approval – Available in Meeting

Background: Proposals for Land of Sky's annual audit reviewed by Audit Committee and recommendation for acceptance.

Staff Recommendation: Approval

Suggested Motion(s): As a recommendation from the Audit Committee, no motion is required. Vote to accept recommendation.