

**REQUEST FOR BOARD ACTION**  
**HENDERSON COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** August 6, 2018  
**SUBJECT:** Sublease of BRCC Field to Henderson County Public Schools  
**PRESENTER:** Carleen Dixon, Parks & Recreation  
**ATTACHMENTS:** 1) Sublease

**SUMMARY OF REQUEST:**

Henderson County Public Schools and Henderson County have worked together to construct a sublease of the Blue Ridge Community College ball field.

Henderson County Public Schools has a need for additional field space and would like to work on, maintain and utilize the BRCC field for organized school sports for practices and games.

**BOARD ACTION REQUESTED:**

The Board is requested to approve the agreement as written in Attachment 1 to be implemented immediately.

**Suggested Motion:**

*I move the Henderson County Board of Commissioners approve the agreement between Henderson County Public Schools and Henderson County supporting the sublease of Blue Ridge Community College ball field for school use as presented in attachment 1.*

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**SUBLEASE OF MEMORANDUM OF UNDERSTANDING**

**THIS SUBLEASE OF MEMORANDUM OF UNDERSTANDING** (the “Sublease”) is made as of June 28, 2018 (the “Effective Date”) by and between **HENDERSON COUNTY** (the “County”), a body corporate and politic under the laws of the State of North Carolina, and **HENDERSON COUNTY BOARD OF PUBLIC EDUCATION** (the “Board”), a body corporate existing under Chapter 115C of the General Statutes of North Carolina and the legal and administrative entity for Henderson County Public Schools (the “HCPS”).

**WHEREAS**, the County and The Trustees of Blue Ridge Community College (“College”) are parties to the *Memorandum of Understanding BRCC Baseball Field Agreement* (the “Agreement”), incorporated herein and attached hereto as Exhibit A;

**WHEREAS**, with the Agreement is, among other duties and responsibilities, a lease for use of the baseball by the County through the County’s park and recreation department; and

**WHEREAS**, as of the Effective Date, the County desires to sublet the Agreement, and all of the County’s rights, duties, requirements, obligations and interests therein, to the Board and the Board is willing to assume the sublet of the Agreement and agrees to be fully responsible for all of the County’s rights, duties, requirements, obligations and interests therein.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and adequacy of which are expressly acknowledged, and intending to the legally bound, the Parties agree as follows:

**1. Recitals.** The above and forgoing Recitals are made an integral part of this Sublease and the Parties hereto do hereby expressly acknowledge and agree that this Sublease is intended to affect the purposes of those Recitals.

**2. Sublease.** The County hereby sublets to the Board, as of the Effective Date, all of the County’s rights, duties, requirements, obligations and interests to the Agreement. The term of the sublet between the County and the Board shall begin on the Effective Date and shall end on December 31, 2024, unless the Agreement is terminated by the College at an earlier point as allowed in the Agreement.

**3. Assumption.** The Board hereby assumes the sublet and hereby agrees to perform, fulfil and comply with and the rights, duties, requirements, obligations and interests to the Agreement as of the Effective Date as if it was the County.

**4. Liability.** Nothing herein shall abrogate or discharge the County of its contractual responsibilities and liabilities to the College under the Agreement. It is specifically agreed between the County and Board that, during the sublet period, the Board shall be responsible for the discharge and performance of any and all rights, duties, requirements, obligations and interests under the Agreement arising from and after (but not prior to) the Effective Date.

**5. Miscellaneous.**

(a) Authority. Each party to this Sublease represents and warrants to the other party that it is duly authorized to enter into this Sublease as set forth herein and perform its respective obligations hereunder without the consent or approval of any other person or party, and that the person signing this Sublease on its respective behalf is duly authorized to sign on behalf of such party.

(b) Disclaimer. This Sublease is made by the County without any express or implied representation or warranty of any kind or nature, except as expressly set forth herein.

(c) No Third-Party Beneficiaries. Nothing in this Sublease, express or implied, is intended or shall be construed to confer upon, or give to, any person, corporation or other entity, other than the named parties to this Sublease, any rights, remedies, obligations or liabilities.

(d) Headings. The section headings used herein are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Sublease.

(e) Governing law. This Sublease shall be governed by and construed in accordance with the laws of the State of North Carolina and proper venue for any claim hereunder is Henderson County, North Carolina.

(f) Counterparts. This Sublease may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

(g) Entire Document. This Sublease represents the entire understanding and agreement between the County and Board with respect to the subject matter hereof, and no amendment or modification of this Sublease shall be effective unless it is set forth in a writing specifically stating that it is intended to be an amendment hereof, specifying what provision hereof is being amended thereby, and signed by each of the County and Board.

**IN WITNESS WHEREOF**, the Parties have executed this Sublease as of the day and year first above written.

**HENDERSON COUNTY BOARD OF  
PUBLIC EDUCATION**

**HENDERSON COUNTY**

By: \_\_\_\_\_  
Bo Caldwell  
Superintendent

By: \_\_\_\_\_  
Steven Wyatt  
County Manager

PREAUDIT CERTIFICATION

This Instrument has been preaudit certified in a manner as required by the School Budget and Fiscal Control Act.

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Bernie Sochia  
HCPS Chief Finance Officer