

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JUNE 7, 2010

The Lincoln County Board of County Commissioners met on June 7, 2010 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Alex E. Patton, Chairman
Bruce Carlton, Vice Chairman
George Arena
Jim Klein
Carrol Mitchem

Planning Board Members Present:

Louis McConnell, Chairman
Gary Garlow, Vice-Chairman
Tom Campbell
Karl Dearnley
Jeff Frushtick
Keith Johnson
Shelly Johnston
James Mauney
Christine Poinsette

Others Present:

George A. Wood, County Manager
Martha W. Lide, Assistant County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Netta Anderson, Addressing Tech
Burns Whittaker, Public Works Director
Leon Harmon, Finance Director

Call to Order: Chairman Patton called the June 7, 2010 meeting of the Lincoln County Board of Commissioners to order.

Adoption of Agenda: Chairman Patton presented the agenda for the Board's approval.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt the agenda.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
JUNE 7, 2010

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|-----|---------|---|
| | 6:40 PM | Call to Order |
| 1. | 6:41 PM | Adoption of Agenda |
| 2. | 6:42 PM | Motion to Enter a Public Hearing on the County Budget and Capital Improvements Program for FY 2011 |
| 3. | 6:50 PM | Memorandum to Address Items from Budget Work Session |
| 4. | 6:55 PM | Consent Agenda <ul style="list-style-type: none">- Approval of Minutes<ul style="list-style-type: none">- May 17, 2010- Tax Requests for Releases - More than \$100<ul style="list-style-type: none">- April 16 - May 5, 2010- Tax Requests for Refunds - More than \$100<ul style="list-style-type: none">- April 19 - May 2, 2010- May 5 - 16, 2010- Waived fees<ul style="list-style-type: none">- Meet Your Candidates Forum (Chamber of Commerce)- Home and Community Care Block Grant FY 2011 Funding Plan |
| 5. | 7:00 PM | Public Comments |
| 6. | 7:15 PM | Private Road Name Public Hearings - Netta Anderson <ul style="list-style-type: none">- W. Old NC 150 Highway- Ikerd Reep Lane- Rugged Ridge Trail- Ada Bill Lane- Grand Oak Lane |
| 7. | 7:30 PM | Motion to Adopt Resolution #2010-28: A Resolution to Adopt the Interlocal Agreement and to Join the NCACC Risk Management Pool - George Wood |
| 8. | 7:40 PM | Motion to Adopt Resolution #2010-29: Resolution to Approve the Bid of RBC Bank at 2.03% for 36 Months to Finance \$1,387,000 of Vehicles and Other Equipment -George Wood |
| 9. | 7:45 PM | Motion to Adopt Resolution #2010-25: Resolution on Authorizing the Collection of Delinquent Utility Bills Through the NC Local Government Debt Setoff Program - George Wood |
| 10. | 7:50 PM | Proposed Change Order No. 2 for Killian Creek WWTP - Burns Whittaker |

11. 7:55 PM Motion to Adopt Resolution #2010-26: Resolution for Planning Grant for Lakehaven Sewer Improvements and Resolution #2010-27: Funding Sources Resolution - Burns Whittaker
12. 8:00 PM Donation of Cameras and Tape Recorder to Graham County Sheriff's Office -Martha Lide
13. 8:05 PM Contract with Institutional Medical Services for Inmate Healthcare Services - Martha Lide
14. 8:10 PM Lease Agreement - Coalition Against Child Abuse - 161 Policarp Street - Martha Lide
15. 8:15 PM Public Hearing - Proposed Industrial Development Incentive Grant for a Prospective New Industry and Motion to Approve Resolution #2010-30: Resolution to Adopt Economic Incentive Grant and Lincoln County Incentive Grant Agreement - Crystal Gettys
16. 8:20 PM Other Business

Adjourn

Motion to Enter a Public Hearing on the County Budget and Capital Improvements

Program for FY 2011: UPON MOTION by Commissioner Mitchem, the Board voted unanimously to enter a public hearing on the County Budget and Capital Improvements Program for FY 2011.

Chairman Patton declared the public hearing on the County Budget and Capital Improvements Program open.

Being no one wishing to speak, Chairman Patton declared the Public Hearing closed.

Memorandum to Address Items from Budget Work Session:

Commissioner Mitchem stated that there has been discussion about earmarking money from the ABC funds. He said he has heard for years in Lincoln County that when the ABC store was built, the money would be put to education. He said this is the first money the county would be receiving from ABC sales. He said he would like to earmark this money to go to technology for the school system.

Commissioner Carlton asked if the money could be earmarked for schools through the Board of Commissioners for the current needs.

Commissioner Carlton said he would be in favor of doing this from this point forward, but not in the current budget year since the budget has already been presented.

Chairman Patton stated that the money has been going to the school system all along. He said regardless of what the Board says, odds are the money is going to the schools. He said to say that alcohol is going to fund schools and tie that to the schools is a detriment to society. He said kids are dying in car wrecks from alcohol and this is glorifying this by saying the sales funds the school system.

Commissioner Klein stated that it would be nice to earmark the funds for specific funds.

Ken Hogue spoke concerning the East Lincoln Fire Department. He said several of the local brokers are aware their old building is for sale. He said they are currently meeting with Planning and Inspections about what the building can be used for.

Consent Agenda: Chairman Patton presented the Consent Agenda for the Board's approval.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Consent Agenda.

- Approval of Minutes
 - May 17, 2010
- Waived fees
 - Meet Your Candidates Forum (Chamber of Commerce)
- Home and Community Care Block Grant FY 2011 Funding Plan

- Tax Requests for Releases – More than \$100
 - o April 16, 2010 – May 15, 2010

NAME	YEAR	DIST	A/C NO.	AMOUNT
Jeranek, Edward A.	2009	Union	0069859	\$4,717.70
Wells Fargo Financial Leasing	2010	N-321	0151276	\$ 122.94
			TOTAL	\$4,840.64
Boehling, Thomas Walter	2009	City	0224460	\$ 122.13
Cornwell, Charles R	2009	City	0221770	\$ 356.63
Davis, Patti Lee	2009	City	0101195	\$ 162.96
Denver Restaurant Equip	2008	DFD	0219049	\$ 113.78
Enterprise Leasing Comp	2009	City	0195515	\$ 196.62
Holman, Mack D	2009	City	0131424	\$ 325.78
Laney, Nellie Reese	2008	PCFD	0122847	\$ 107.47
Leggett, Joseph Claude	2009	ELFD	0219505	\$ 162.73
McCoig, Michael Shawn	2009	ALFD	0206898	\$ 146.89
Moore, Stephen James	2009	City	0171459	\$ 148.37
Saltz, Arthur Case III	2009	City	0218304	\$ 204.99
Sharp Enterprises LLC	2009	DFD	0195433	\$1,259.65
Thomas, Douglas Frank	2009	N-321	0180961	\$ 100.73
Waldon, Linda Stallings	2009	City	0220366	\$ 229.05
Wilbur, Renee Meta	2009	City	0225317	\$ 107.13
			TOTAL	\$3,744.81

- Tax Requests for Refunds – More than \$100
 - o April 19 – May 2, 2010

Cody, Bobby G.	2009	City	0106643	\$129.73
Jones, Olen M.	2009	City	0159402	\$252.62

- Tax Requests for Refunds – More than \$100

o May 3 – 16, 2010

Village Cabinets

2009

ELFD/ELSD

0189882

\$103.68

Public Comments: Chairman Patton advised that this was the time the Board of Commissioners would receive comments from the citizens regarding any matter they desired to address.

Ken Jackson, 108 Killian Farm Road, Stanley, NC spoke concerning zoning issues.

Rudy Bauer asked if he will have answers on June 15 on Burton Creek.

Jeff Taylor stated that there will be a sale June 15.

Being no additional speakers, declare public hearings closed.

Private Road Name Public Hearings – Netta Anderson: Netta Anderson presented the following information

W. Old NC 150 Highway:

This road is located off of W NC 150 Highway and requires naming due to the fact that there have been some concerns expressed to us by property owners as to the proper name for the portion of W NC 150 Highway that runs through Crouse. The Road Review Committee members recommend that we rename that portion of the road; **W Old NC 150 Highway**. The name is not a duplicate or sound-alike and has been approved by Communications and the Road Review Committee.

Chairman Patton opened the Public Hearing concerning W. Old NC 150 Highway.

Rodney Black, 2956 Hwy 150, Crouse, stated that he did not understand and wanted to be sure the road is West Old NC 150 Highway.

Being no additional speakers, Chairman Patton declared the Public Hearing closed.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the road name W. Old NC 150 Highway.

Ikerd Reep Lane:

This road is located off of Goins Lane. The Road Requires renaming due to a Plat being Recorded; The name proposed is **Ikerd Reep Lane** and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the Public Hearing concerning Ikerd Reep Lane. Being no speakers, Chairman Patton declared the Public Hearing closed.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the road name Ikerd Reep Lane.

Rugged Ridge Trail:

This road is located off of Low Bridge Road and requires naming due to the fact that there are now two (2) structures that access Low Bridge Road via this private road. The name proposed is Rugged Ridge Trail.

Chairman Patton opened the Public Hearing concerning Rugged Ridge Trail. Being no speakers, Chairman Patton declared the Public Hearing closed.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the road name Rugged Ridge Trail.

Ada Bill Lane:

This road is located off of Mount Vernon Church Road and requires naming due to the fact that there are now four (4) structures that access Mount Vernon Church Road via this private road. The name proposed is Ada Bill Lane and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the Public Hearing concerning Ada Bill Lane. Being no speakers, Chairman Patton declared the Public Hearing closed.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the road name Ada Bill Lane.

Grand Oak Lane:

This road is located off of N Ingleside Farm Road and requires naming due to the fact that there are now three (3) structures that access N Ingleside Farm Road via this private road. The name proposed is Grand Oak Lane and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by Communications.

Chairman Patton opened the Public Hearing concerning Grand Oak Lane. Being no speakers, Chairman Patton declared the Public Hearing closed.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the road name Grand Oak Lane.

Motion to Adopt Resolution #2010-28: A Resolution to Adopt the Interlocal Agreement and to Join the NCACC Risk Management Pool – George Wood: George Wood stated that this is a continuation of what is done now, the NCACC needs a new Resolution adopted.

RESOLUTION 2010-28

**RESOLUTION TO ADOPT THE INTERLOCAL AGREEMENT
AND
TO JOIN THE NCACC RISK MANAGEMENT POOL**

WHEREAS, Lincoln County desires to pool the retention of their risks, liabilities and/or payments, or for the group purchase of coverage, and has completed a Pre-Audit Certification in compliance with N.C.G.S. § 159-28; and

WHEREAS, the North Carolina Counties Risk Management Agency d.b.a. NCACC Risk Management Pools (hereafter called the “Risk Pool”), has been established pursuant to G.S. § 153A-445 (a) (1) and G.S. § 160A-460 through § 160A-464; and

WHEREAS, it is desirable for Lincoln County to join the Risk Pool to obtain the opportunity for risk sharing and/or group purchase of coverage;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners or Governing Board of Lincoln County hereby adopts the foregoing Interlocal Agreement and hereby joins and agrees to participate in the Risk Pool as indicated: North Carolina Counties Liability and Property Joint Risk Management Agency d.b.a. NCACC Liability and Property Pool

BE IT FURTHER RESOLVED that Lincoln County is duly authorized to execute the application to join the Risk Pool and hereby executes the Agreement on behalf of Lincoln County.

Witnessed wherefore, this the 7th day of June, 2010.

Attest: _____

NORTH CAROLINA
LINCOLN COUNTY

Personally appearing before me this 7th day of June, 2010, Alex E. Patton, who, being first duly sworn, acknowledge the execution of the foregoing Agreement for the purposes and considerations therein and herein expressed.

My commission expires: _____

Notary Public

Pre-Audit Certification Pursuant to N.C.G.S. § 159-28

This foregoing Agreement has hereby been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leon Harmon, Finance Officer

NORTH CAROLINA
LINCOLN COUNTY

Personally appearing before me this 7th day of June, 2010, the Finance Officer, Leon Harmon, who, being first duly sworn, acknowledged the execution of the foregoing Agreement for the purposes and considerations therein and herein expressed.

My Commission expires: _____

Notary Public

UPON MOTION by Commissioner Arena, the Board voted unanimously to approve the motion to adopt Resolution #2010-28: A Resolution to Adopt the Interlocal Agreement and to Join the NCACC Risk Management Pool.

Motion to Adopt Resolution #2010-29: Resolution to Approve the Bid of RBC Bank at 2.03% for 36 Months to Finance \$1,387,000 of Vehicles and Other Equipment – George Wood: Mr. Wood stated that this is primarily for Law Enforcement vehicles ambulances, with some smaller amounts for defibrillators and radios. He said the bids were very good and were far lower than planned.

Chairman Patton introduced the following resolution which was read:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN THE AMOUNT OF \$1,387,000.00 WITH RBC BANK (USA) TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT FOR USE BY THE COUNTY OF LINCOLN, NORTH CAROLINA, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

BE IT RESOLVED by the governing body for the County of Lincoln, North Carolina (the “Unit”):

The governing body of the Unit does hereby find and determine:

The County of Lincoln proposes the acquisition of certain equipment, which may include fixtures as more fully described in the hereinafter mentioned Contract (collectively, the “Equipment”);

After consideration, the governing body of the Unit has determined that the most advantageous manner of financing thereof is by an installment contract pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended;

Pursuant to Section 160A-20, the Unit is authorized to finance the acquisition of personal property, including fixtures, by installment contracts that create a security interest in the property financed to secure repayment of the financing; and

RBC Bank (USA) ("RBC Bank (USA)") has proposed that RBC Bank (USA) enter into an Installment Financing Contract with the Unit to finance the Equipment pursuant to which RBC Bank (USA) will lend the Unit then amount of \$1,387,000.00 (the "Contract") and a related Escrow Agreement between the Unit and RBC Bank (USA) (the "Escrow Agreement").

The governing body of the Unit hereby authorizes and directs Finance Director to execute, acknowledge and deliver the Contract and Escrow Agreement on behalf of the Unit in such form and substance as the person executing and delivering such instruments on behalf of the Unit shall find acceptable. The Clerk is hereby authorized to affix the official seal of the County of Lincoln to the Contract and the Escrow Agreement and attest the same.

The proper officers of the Unit are authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and the Contract and the Escrow Agreement.

Notwithstanding any provision of the Contract or the Escrow Agreement, no deficiency judgment may be rendered against the Unit in any action for breach of a contractual obligation under the Contract or the Escrow Agreement and the taxing power of the Unit is not and may not be pledged directly or indirectly to secure any moneys due under the Contract, the security provided under the Contract being the sole security for RBC Bank (USA) in such instance.

The Unit covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code") as required so that interest on the Unit's obligations under the Contract will not be included in the gross income of RBC Bank (USA).

The Unit hereby represents that it reasonably expects that it, all subordinate entities thereof and all entities issuing obligations on behalf of the Unit will issue in the aggregate less than \$30,000,000 of tax-exempt obligations, including the Contract (not counting private-activity bonds except for qualified 501(c)(3) bonds as defined in the Code) during calendar year 2010. In addition, the Unit hereby designates the Contract and its obligations under the Contract as a "qualified tax-exempt obligation" for the purposes of the Code.

This Resolution shall take effect immediately upon its passage.

Upon motion of Commissioner Carlton, seconded by Commissioner Mitchem, members of the governing body, the foregoing resolution entitled "**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT IN**

THE AMOUNT OF \$1,387,000.00 WITH RBC BANK (USA) TO FINANCE THE ACQUISITION OF CERTAIN EQUIPMENT, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH” was passed by the following vote:

Unanimously approved.

PASSED AND ADOPTED this 7th day of June, 2010.

Motion to Adopt Resolution #2010-25: Resolution on Authorizing the Collection of Delinquent Utility Bills Through the NC Local Government Debt Setoff Program – UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt Resolution #2010-25.

**RESOLUTION #2010-25: A RESOLUTION TO AMEND THE
RESOLUTION AUTHORIZING USE OF THE NC LOCAL
GOVERNMENT DEBT SETOFF PROGRAM**

Whereas, North Carolina General Statue Chapter 105A, Setoff Debt Collection Act, authorizes the North Carolina Department of Revenue to cooperate in identifying debtors who owe money to local governments and who qualify for refunds from the Department of Revenue; and

Whereas, the law authorizes the setting off of certain debts owed to local governments against tax refunds; and

Whereas, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities have jointly established a clearinghouse to submit debts on behalf of Lincoln County, as provided by law; and

Whereas, the Lincoln County Board of Commissioners previously adopted a resolution dated January 21wt authorizing the Tax Administrator as the person to hold hearings, conduct necessary proceedings, and to manage the program in Lincoln County for the collection of property taxes, fees and charges, and other debts; and

Whereas, the Lincoln County Board of Commissioners wishes to utilize this program to collect delinquent utility bills also, as the City of Lincolnton already does;

Now Therefore, Be It Resolved by the Lincoln County Board of Commissioners that Lincoln County will participate in the debt setoff program for the collection of all delinquent debts owed the County, including but not limited to real and personal property taxes, fees and charges, availability fees, capacity development fees, tap fees, and utility bills; and hereby designates the Tax Administrator as the officer to hold hearings, conduct necessary proceedings, and to manage this program for Lincoln County.

The Chairman, County Manager, and County Clerk are hereby authorized to execute such

documents and agreements as are necessary to participate in the debt setoff program.
Adopted by the Lincoln County Board of Commissioners on the 7th day of June, 2010.

BY: _____
Alex E. Patton, Chairman

ATTESTED BY:

Amy S. Atkins, Clerk to the Board

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the motion to adopt Resolution #2010-25: Resolution on Authorizing the Collection of Delinquent Utility Bills Through the NC Local Government Debt Setoff Program.

Proposed Change Order No. 2 for Killian Creek WWTP – Burns Whittaker: Burns Whittaker presented Change Order No. 2 for Killian Creek WWTP. This is a deduct in the amount of \$43.91.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Proposed Change Order No. 2 for Killian Creek WWTP.

Motion to Adopt Resolution #2010-26: Resolution for Planning Grant for Lakehaven Sewer Improvements and Resolution #2010-27: Funding Sources Resolution – Burns Whittaker:

Resolution #2010-26: Authorizing Resolution by the Board of Commissioners of Lincoln County

Planning Grants Program

WHEREAS, Appropriation Planning grant funds has authorized the making of grants to aid eligible units of government in financing the cost of planning for construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, Lincoln County has need for and intends to plan for the construction or rehabilitation of a publicly-owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as Lakehaven Sewer Improvements; and

WHEREAS, Lincoln County intends to request grant assistance from the Planning Grants Program for the project;

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY:

That Lincoln County will arrange financing for all remaining costs of the project, if approved for a grant.

That Lincoln County will provide for efficient operation and maintenance of the project on completion of construction thereof.

That George A. Wood, County Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of Lincoln County with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That George A. Wood, County Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That Lincoln County has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this the 7th day of June 2010 at Lincolnton, North Carolina.

Alex E. Patton, Chairman

ATTEST:

Amy S. Atkins, Clerk to the Board

**Resolution #2010-27: Funding Sources Resolution by the Board of Commissioners of
Lincoln County**

Planning Grants Program

WHEREAS, The Appropriation Planning grant funds has authorized the making of grants to aid eligible units of government in financing the cost of planning for construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, Lincoln County has need for and intends to plan for the construction or rehabilitation of a publicly-owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as Lakehaven Sewer Improvements; and

WHEREAS, Lincoln County intends to request grant assistance from the Planning Grants Program for the project;

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY:

That Lincoln County will commit a cash match of 50% of grant amount (up to \$20,000) to the project, if approved for a grant.

That Lincoln County will distribute the cash match from its water & sewer fund.

Adopted this the 7th day of June, 2010 at Lincolnton, North Carolina.

Alex E. Patton, Chairman

ATTEST:

Amy S. Atkins, Clerk to the Board

UPON MOTION by Commissioner Carlton, the Board voted unanimously to adopt Resolution #2010-26: Resolution for Planning Grant for Lakehaven Sewer Improvements and Resolution #2010-27: Funding Sources Resolution

Donation of Cameras and Tape Recorder to Graham County Sheriff's Office – Martha Lide: Martha Lide presented the following information:

The Graham County Sheriff's Office was gutted by a fire set by an arsonist, who was trying to destroy evidence in his drug trafficking case on May 17, 2010. The fire destroyed the sheriff's office, but did not destroy the evidence in the drug dealer's case. Their Office employs about 14 people, and all of their computers, telephones, furniture, etc. were destroyed. The County is currently experiencing severe budget problems, and they are concerned about reopening the office. They have requested donations and assistance from other North Carolina Counties (see attached list).

The Lincoln County Sheriff's Office has identified 2 Polaroid Spectra Cameras, 2 Sony FD Mavica Cameras and 1 Realistic tape recorder that they would like to donate to the Graham County Sheriff's Office. They have determined that these cameras are surplus to their operation.

G.S. 160A-274 gives counties the authority to sell or donate property to other governments. The statute requires that the donation or sale be approved by the governing board, but otherwise the statute doesn't require any special procedures—except complying with local policies.

It is recommended that the Board approve the donation of the four cameras as described on the attached surplus /obsolete property form to the Graham County Sheriff's Office.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the Donation of Cameras and Tape Recorder to Graham County Sheriff's Office.

Contract with Institutional Medical Services for Inmate Healthcare Services – Martha Lide:

It is recommended that the Board approve the attached one year contract with Institutional Medical Services (Dr. John H. Piland) in the amount of \$185, 960 for Inmate Healthcare Services at the Lincoln County Jail/Detention Center. The term of the contract will be from July 1, 2010 through June 30, 2011 and the County shall have the option to renew the contract for up to four additional one year periods.

The process for awarding this contract was as follows:

- A Request for Proposals (RFP) was prepared and distributed to six (6) providers on April 23, 2010.
- Responses to RFP's were due back to the County at 2:00 pm on May 20, 2010. Four Proposals were received and opened. The execution page of the proposal, bid sheet and cost sharing page were verified and recorded.
- Because of the nature of services involved in this contract, cost is only one factor involved in evaluating the proposals. A review committee composed of the Purchasing Agent, the Jail Administrator, Assistant Jail Administrator and Finance Manager for the Sheriff's Office reviewed the proposal and scored them based on the following criteria:
 - Proposal Response (how well the issues were addressed) (0-20 pts)
 - Experience with facilities of the same size (0-20pts)
 - Qualifications (0-20pts)
 - References (0-20 pts)
 - Cost (total)(includes per diem for inmate increase/decrease and services provided in house (jail) (0-20 pts)

- The review committee recommended the award of the Inmate Health Services contract to Institutional Medical Services. Sheriff Daugherty supports this recommendation.

As you can see in the attached Bid Tabulation Document, Institutional Medical Service's base bid amount appears to be \$7,427.59 more than the next lowest bidder, Southeastern Service Group. However, Institutional Medical Service's bid did not include additional per diem charges/reductions for population count increases/decreases while Southeastern Service Group had a per diem increase of \$1.45 and a decrease of \$1.42 per inmate. Institutional Medical Service's proposal also included providing all pre-employment physicals for new hires in the Sheriff's Office at no additional charge to the county, as an additional service. The Review Committee weighed this cost difference along with the responsiveness, experience, qualifications, and references of each of the bidders and recommends the contract award to Institutional Medical Service.

The following services were included in the RFP:

- The hours which Inmate Health Services are to be provided at the Detention Center/Jail are 12 hours per day Monday thru Friday and 3 hours each Saturday and Sunday.
- The cost portion of the RFP is based on tiers of population. Tier #1 is for a population of 100 inmates and tier #2 is for a population of 120 inmates.
- The County requested three (3) options with this proposal which will not become a part of the contract for the 2010-11 fiscal years. However, at the county's option during the yearly renewal period any of the options may be added. The options are:
 - Option A – 24 hour service Monday thru Friday
 - Option B – 12 hour service for Saturday and Sunday
 - Option C – 24 hour/7 day service

AGREEMENT

AGREEMENT, made this 10th day of June, 2010 by and between Lincoln County (hereinafter County) and Institutional Medical Services, PLLC (hereinafter "Service Provider").

WHEREAS, County desires to retain Service Provider to provide medical care (hereinafter "Services") for inmates in the Lincoln County Jail (hereinafter "Jail") pursuant to N.C.G.S. 153A-225; and

WHEREAS, Service Provider certifies that he is licensed to practice medicine in the State of North Carolina, is in good standing in all respects regarding his licensure and certification and has the requisite skills and expertise to perform the duties set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. Service Provider will direct the medical program at the Jail with the assistance of his partners and nurses provided by Service Provider.
2. Service Provider will be responsible for salary, benefits, and all insurance costs associated with providing a nurse to operate a sick call clinic at the Jail, and a medtech or LPN for a minimum of 72 hrs per week. The physician, with the assistance of nurse, will be present for sick call clinic at the Jail at least once each week, or otherwise as necessary. Service provider will further be responsible for salary, benefits, and all insurance costs associated with providing a staff to dispense medications and assist with the overall medical program.
3. Service Provider or his designee will be available 24 hours per day for telephone consultation with the nurse, detention officers or emergency medical services' personnel, regarding medical care for inmates.
4. Non-emergency cases may be seen at the Jail during regular office hours. In the event Service Provider determines that emergency services are needed, problems may be handled at the discretion of the provider by a visit to the Jail, or referral to the local Emergency Department. Jail will be responsible for transportation. Service Provider will review all non-emergency cases involving "High Risk Transports" at the Jail prior to transporting.
5. Service Provider will write orders for prescription and non-prescription medication, instructions for dispensing such medication, and make recommendations for treatment of inmates.
6. Service Provider will work closely with the Jail staff to identify ways to save money on inmate medical costs, while maintaining essential medical health care standards. Will also develop protocol for Jail Physician's approval on all non-emergency referrals requiring outside physician and jail transportation.
7. Institutional Medical Services, PLLC, will provide post-offer exams for the Lincoln County Sheriff's Department at no additional cost to the county. The exams will be performed on the day the provider is at the facility, or as otherwise arranged by the provider. Should urgency

arise, they may be performed at another location as agreed upon by the 2 parties. Any outside costs incurred for the exam i.e. labs, referrals, etc., will be paid by the county.

8. County will pay Service Provider the sum of \$15,496.00 per month for medical services rendered hereunder. Payment (including applicable taxes) is due within 30 days of the invoice date. The invoice can be dated no earlier than the 15th day of the current month of service. Payment is payable to Institutional Medical Services, PLLC.
9. Late Payment: If a payment is not received within 10 days after the due date, Institutional Medical Services, PLLC may charge, and you will pay, a late fee of 5% of the due amount, or \$25, whichever is greater.
10. FUNDING: The County Sheriff's Department represents and warrants that all payments due and to become due during the current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the Services, and it is Lincoln County's intent to use the Service for the entire term of this Agreement and to make all payments required under this Agreement. If the Lincoln County legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no funds to do so from other sources, this agreement may be terminated. To effect this termination, Lincoln county must, at least 15 days prior to the beginning of the fiscal year for which the legislative body does not appropriate funds, notify Institutional Medical Services, PLLC, in writing that the legislative body failed to appropriate funds. **This Agreement will not be automatically renewed.**
11. Service Provider will indemnify and hold County harmless from and against any liability for personal injury or property damage arising out of Services performed hereunder. Service Provider shall carry and maintain throughout the full term of this Agreement, or any extension hereof, at Service Provider's sole expense, insurance covering just the obligations or acts of Service Provider under this Agreement, including specifically medical malpractice and general liability insurance. A certificate of such insurance shall be furnished to County upon request. Service Provider shall give County thirty (30) days written notice prior to cancellation or modification of any such policy. The maintenance of such insurance will not in any manner affect Service Provider's obligation to indemnify County as described above. Service Provider agrees that such insurance shall be primary, regardless of any other insurance coverage, which County may procure for its own benefit.

Service Provider shall further ensure that Nurse, other employees, or subcontractors of Service Provider maintain insurance covering the obligations and acts required by this agreement, including specifically medical malpractice and general liability insurance. Service Provider shall further ensure that Nurse, other employees or subcontractors of Service Provider shall be covered by Worker's Compensation Insurance as may be required by law. Service Provider shall provide County with certificate of insurance coverage for Nurse, other employees or subcontractors of Service Provider upon request, and shall give County thirty (30) days written notice prior to cancellation or modification of any such policies. Service Provider agrees that such insurance shall be primary, regardless of any other insurance coverage, which County may procure for its own benefit.

12. ASSIGNMENT: Without prior written consent of the other party, neither party will assign any

its rights or obligations under this agreement.

13. The term of this Agreement shall commence on July 1, 2010 and end on June 30, 2011. Either party may nonetheless cancel this contract on Thirty (30) days written notice to the other party. Any notice to be given hereunder shall be given in writing and delivered personally, or by registered or certified mail, postage prepaid as follows:

To County: Lincoln County Sheriff's Department
700 John Howell Memorial Drive
Lincolnton, NC 28092

Lincoln County Manager's Office
Third Floor Citizens Center
115 West Main Street
Lincolnton, NC 28092

To Contractor: Institutional Medical Services PLLC
John H. Piland, M.D.
4039 Lee Cline Road
Conover, North Carolina 28613

14. Service Provider agrees to follow the Lincoln County Medical Care Plan (hereinafter "Plan") as well as applicable laws and regulations of the State of North Carolina in providing Services and by execution of this Agreement acknowledges that he has received a copy of said Plan.
15. Service Provider shall at all times maintain all required certificates and licenses of medical practice, including state licensure, state privilege tax, and any other requirements for the practice of medicine in the State of North Carolina, and provide proof of same upon request to the County. Service Provider shall further be responsible for ensuring that the Nurse employed by Service Provider to perform services at the Jail maintains all required certificates and licenses relevant to nursing services in the State of North Carolina.
16. This Agreement does not constitute Service Provider an employee, agent, representative, joint venture or partner of County for any purpose whatsoever. Service Provider is not authorized to make any contract, agreement, warranty or representation, express or implied, on behalf of County. Neither Service Provider nor any employee, agent or contractor of Service Provider has an employment status with County and are not entitled to participate in any benefits extended by County to its own employees, including specifically worker's compensation benefits.

County is interested only in the results to be achieved, but the conduct and control of the work will lie solely with the Service Provider. All persons employed by Service Provider to perform Services hereunder shall be subject to the exclusive direction and control of Service Provider, it being the intention of the parties that Service Provider and his employees shall remain independent contractors, not subject to the control of County.

17. Service Provider shall give immediate written notice to County of all accidents or claims of any kind whatsoever arising out of Service Provider's performance under this Agreement, and shall cooperate fully with County or its representatives in the investigation, handling or prosecution of any such claim, subject to the Service Provider's duties to report to, cooperate with, and keep confidential, matters which he must report to his medical professional liability carrier. By executing this Agreement, Service Provider authorizes the release of any police, medical or accident reports to County or County's representative. This release will survive the termination of this Agreement.
18. Failure of any party to comply with the provisions of this Agreement shall be deemed a material breach. Upon defaulting party's failure to correct such non-compliance within five (5) days after receipt of notice of default, the non-breaching party may, at its option, terminate this Agreement.
19. No failure or delay to exercise a remedy hereunder shall constitute a waiver of any such right or remedy as stated herein or under equity or law.
20. Service Provider represents that he is entering into this Agreement free from any obligation or claim, either for his services or his employees, which is contrary to the provisions hereof. This Agreement or any right hereunder, shall not be assigned by either party, nor shall any duty hereunder be delegated by either party, without the express written consent of the other party. Any attempted assignment or delegation without such consent shall be void.
21. Should an adversarial proceeding arise between the parties pursuant to this Agreement, the losing party in any such proceeding shall pay the reasonable expenses, including attorneys' fees, of the prevailing party.
22. This Agreement shall be governed by and in accordance with the laws of the State of North Carolina. Venue for any adversarial proceeding shall be set in Lincoln County.
23. This Agreement constitutes the entire agreement and understanding between the parties respecting the subjects covered herein, and shall not be modified in any respect except in a writing that is signed by both parties.
24. This Agreement may be executed in multiple counterparts, with each part so executed being deemed an original, however, collectively constituting but a single document.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year above first written.

LINCOLN COUNTY

By: _____
Alex E. Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Date: _____, 2010

SERVICE PROVIDER

By: _____
John H. Piland, M.D.
Institutional Medical Service, PLLC

ATTEST:

Date: _____, 2010

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the contract with Institutional Medical Services for Inmate Medical Services..

Ms. Lide stated that through the bidding process, the County will save about \$18,000 per year.

Lease Agreement: Coalition Against Child Abuse – 161 Policarp Street – Martha Lide:
Martha Lide stated that it is recommended that the Board approve the Resolution and lease agreement with the Coalition Against Child Abuse Child Advocacy Center (CAC) for the use of a County owned house located at 161 Policarp Street, in Lincolnnton. It is a twenty-five year lease for \$1.00 per year. The facility would be used to support a multidisciplinary team approach to investigating child abuse and providing treatment and resources for the victim and their non offending family members.

The 4 bedroom 2 bath house located at 161 Policarp Street was previously used as a group home for disabled individuals, but has been vacant for close to a year. The house is currently in somewhat of a state of disrepair; it needs a new roof and a new HVAC, and has water damage inside the home.

The Lincoln County Coalition Against Child Abuse (CAC), 501 (c) 3 non profit organization, is currently located in a trailer beside the Lincoln County Health Department. The trailer has had a leaking roof and is in very bad condition. A blue tarp was placed over the roof, to try and prevent leaks, but it was a temporary fix and is only marginally effective. The CAC has been searching for a new location for over a year. They became aware of the house located at 161 Policarp Street, and believe it will be an excellent location for their program.

In order for this facility to be utilized by the Lincoln County Coalition Against Child Abuse CAC repairs are needed. Ms. Lide recommended the County replace the roof at an estimated cost of \$7,200 and give \$3,500 to the CAC to replace the HVAC unit, as it will remain a County asset. County Maintenance staff would assist with the installation of the unit. The 25 year lease provides that the CAC would then be responsible for all maintenance and repairs for the term of the lease. The long term lease will allow them to apply for grants for renovations and repairs. They have had an outpouring of support for this project. Donations and discounts have already been received for the internal repairs, shelving, furniture, and labor.

According to G.S. 160A-272, leases of county-owned property for terms greater than 10 years are treated as sales, and therefore, the procedures of Chapter 160A regarding sales must be followed. G.S. 160A-270 provides that a county may convey real property to “any public or private entity which carries out a public purpose” and may do so by the procedures for a private sale set forth in G.S. 160A-267 which allows a private sale on the following terms:

- (1) the Board must adopt a resolution authorizing an appropriate official to dispose of the property by private sale at a negotiated price (in this context, the price would be the rent plus the consideration of operating the facility for a public purposed;

- (2) A notice summarizing the contents of the resolution must be published at least once after it is adopted; and
- (3) The sale may not be consummated until at least 10 days after the publication. The published notice requirement is “after the fact” and there is no need for a public hearing, and it is simply a matter of “running out the clock” after the notice is published.

The City of Lincolnton Planning Board approved a zoning modification in order for the CAC to utilize the property as outlined on May 18, 2010. It will be submitted to the Lincolnton City Council on June 3, 2010. At this point, many neighbors have expressed support of this project.

RESOLUTION 2010-29: RESOLUTION TO APPROVE LEASE OF COUNTY-OWNED PROPERTY TO LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC.,

WHEREAS, Lincoln County owns a certain parcel of real property located at 161 Policarp Street, Lincolnton, North Carolina; and

WHEREAS, the said parcel contains a residence that has been used in the past for group home facilities operated or supported by the County; and

WHEREAS, the Lincoln County Coalition Against Child Abuse, Inc. (hereinafter, the “Coalition”), a North Carolina nonprofit corporation, needs a site on which to locate its Child Advocacy Center for the benefit of abused children in Lincoln County and the County’s citizens in general; and

WHEREAS, the Board of Commissioners believes that the County has no other current need for the said property and that the property would be an appropriate location for the Child Advocacy Center; and

WHEREAS, the County and the Coalition are willing to enter into a lease for the said property for a term of 25 years at a rental of \$1.00 per year; and

WHEREAS, the Coalition specifically agrees that its use of the property shall be consistent with a public use as required by N.C.G.S. 160A-279;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Lincoln County Board of Commissioners approves the lease of the real property at 161 Policarp Street, Lincolnton, North Carolina, to the Coalition on the terms stated herein and hereby authorizes its Chairman and Clerk to execute the said lease in accordance with the procedures of Article 12 of Chapter 160A of the North Carolina General Statutes for transfer of real property to an entity which carries out a public purpose. It is further resolved that the Clerk shall publish a notice of this resolution in accordance with Section 160A-267 of the North Carolina General Statutes and that the lease shall not be consummated until at least 10 days after its publication.

Adopted this 7th day of June, 2010.

LINCOLN COUNTY

By: _____
Alex E. Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners
NORTH CAROLINA

LEASE

LINCOLN COUNTY

THIS AGREEMENT, made as of the 1st day of June, 2010, by and between **LINCOLN COUNTY**, a body corporate and politic, hereinafter called Lessor, and **LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC.**, a North Carolina nonprofit corporation, hereinafter called Lessee.

In consideration of the mutual covenants and conditions herein contained, Lessor does hereby lease unto Lessee, and Lessee does hereby hire and take from Lessor for the term and upon the conditions hereinafter specified, the premises situate in the County of Lincoln, State of North Carolina, and described as follows:

The house and land located at 161 Policarp Street, Lincolnton, North Carolina. (attachment)

1. **TERM.** The term of this demise shall be for twenty – five (25) years, beginning on the 1st day of July 2010, and ending on the 30th day of June, 2035, unless the Option hereinafter granted is exercised.

2. **RENTAL; USE.** The rent for the demised premises shall be \$1.00 (One Dollar) per year. Lessee shall use the premises in connection with the operation of its Child Advocacy Center. Lessee specifically agrees that it shall at all times use the premises for a public use in accordance with N.C.G.S. 160A-279 or successor provision.

3. **WASTE, ETC.** Lessee covenants and agrees with Lessor that the leased premises shall be used and occupied in a careful, safe and proper manner and that no use or activity which is unlawful or is regarded by any insurance rating bureau as extra or especially hazardous shall be engaged in or permitted by Lessee on the lease premises. Lessee will not commit any waste of the premises, or permit the same to be done, and will take good care of the leased premises at all times.

4. **ALTERATIONS.** The said Lessee shall not make any material alterations to said premises without the written consent of Lessor, and all additions and improvements made by Lessee shall be and remain the property of Lessor. In the event of any changes, alterations, or additions being required by any law, ordinance or regulation of the Fire Department or Board of Health, then the cost of such changes, alterations or additions shall be paid by Lessor.

5. **SUBLETTING.** The said Lessee hereby covenants and agrees that neither the said premises nor any part thereof shall be underlet without the consent in writing of Lessor, nor shall this lease be assigned (whether for the benefit of the creditors of said Lessee or otherwise) without such written consent. In no event shall the subletting or assignment of this lease relieve

Lessee of any of the covenants, agreements and obligations imposed on Lessee in this lease.

6. **DELIVERY AT END OF LEASE.** The said Lessee agrees to deliver to the said Lessor the said premises at the expiration of this lease in good order and condition and to make good all damages to said premises, usual wear and tear and damage by the elements excepted.

7. **DEFAULT BY LESSEE.** Lessor shall have the right, at the option of Lessor, to annul this lease, upon ten days' written notice to Lessee, and to thereupon re-enter and take possession of the said premises, upon the happening of any one or more of the following events:

(a) In the event Lessee should fail to pay any sum required to be paid hereunder, as and when the same become due and such default should continue for ten days after written demand for the payment thereof is made by Lessor upon Lessee.

(b) In the event Lessee, before the expiration of said term, and without the written consent of Lessor, vacates said premises or abandons the possession thereof or uses the same for purposes other than the purposes for which the same are hereby let, or ceases to use said premises for the purposes herein expressed.

(c) In the event Lessee violates any other terms, conditions or covenants on the part of Lessee herein contained and fails to commence and to proceed with diligence and dispatch to remedy the same within ten days after written notice thereof is given by Lessor to Lessee.

In the event Lessee abandons the leased premises before the expiration of the term thereof, whether voluntarily or involuntarily, or violates any of the terms, conditions or covenants hereof, Lessor shall have the privilege, at Lessor's option, of re-entering and taking possession of said premises and leasing all or any portion of said premises for such term and for such use deemed satisfactory to Lessor.

No re-entry hereunder shall bar the recovery of damages for the breach of any of the terms, conditions or covenants on the part of Lessee herein contained. Delay on the part of Lessor to enforce any right hereunder shall not be deemed a waiver or forfeiture, or a waiver of the right of Lessor to annul the lease or to re-enter said premises or to relet the same.

Any provision in this lease to the contrary notwithstanding, in the event Lessee abandons the leased premises or fails to pay within ten days after written demand for the payment thereof, made by Lessor upon Lessee, any sum required to be paid hereunder, Lessor shall thereupon have the right to enter upon the said leased premises and to take possession thereof and to lease the same or any portion thereof for such term and for such use and to such tenant and upon such terms and conditions as Lessor may deem advisable.

8. **HOLDOVER.** Should Lessee remain on the premises after the expiration of this Lease agreement, Lessee shall become a month-to-month tenant on the same terms as stated herein.

9. **PROTECTION FROM VIOLATIONS.** Lessee agrees to save and hold the Lessor harmless from violations of the laws of the United States and the laws and ordinances of the State, County and City wherein the premises is located. Lessee also will comply at all times and in all respects with all the laws relating to nuisance insofar as the building and the premises hereby let and the streets and parking areas bounding the same are concerned, and Lessee will not, by any act or omission, render Lessor liable for any violation thereof.

10. **ADVERTISING.** Unless otherwise agreed in this Lease, Lessee shall not be permitted to affix or attach, or cause to be affixed or attached, any signs on the premises herewith leased without consent in writing from Lessor.

Upon termination of this lease, Lessee shall remove any sign, advertisement or notice painted on or affixed to the leased premises and restore the place it occupied in the condition which it existed as of the date of this lease. Upon Lessee's failure to so remove, Lessor, at their option, may do so at Lessee's expense.

Lessor likewise reserve the right to approve all advertising signs to be exhibited as well as their location, but Lessor agree not to unreasonably withhold its consent.

11. **REPAIRS, MAINTENANCE, ETC.** Lessee shall be responsible for all repairs and maintenance, such as painting the exterior or interior of the building, during the term of this lease. Lessee will replace all keys lost or broken, and will pay all bills for water, electricity and other utilities used on said premises. Lessee will keep the inside of the premises in good order and repair, including any requirements imposed by the laws or ordinances of Lincoln County, or any other governmental agency having jurisdiction. Lessor will not be liable for any damages caused by, or growing out of, any breakage, leakage, getting out of order of defective condition of said electric wiring, water pipes, etc. or any other defect in the leased premises, or for any damages caused by or growing out of fire, wind or other cause.

12. **INSPECTION BY LESSOR.** Lessor reserves the right to visit and inspect the leased premises at all reasonable times.

13. **FIRE CLAUSE.** In the event the leased premises should be damaged or destroyed by fire or other casualty during the term of this lease, Lessor in its sole discretion may terminate this lease or restore said premises for the continued use of Lessee as provided herein.

14. **INDEMNIFICATION OF LESSOR.** Lessee will indemnify and save harmless Lessor of and from any and all suits, claims, demands and actions of any kind or nature, by reason of any breach, violation or nonperformance of any condition hereof by Lessee. Lessee will indemnify, protect and save harmless Lessor from and against any and all loss, cost, damage or expense caused by or resulting from injuries to persons or property while in, on or about the leased premises. Any and all property of Lessee which may be located or stored in the leased premises shall be at the sole risk of Lessee. In that connection, Lessee agrees to obtain and keep in force during the term of this lease liability insurance in amounts reasonably satisfactory to Lessor, and such insurance policy or policies shall name Lessor as an additional insured. Lessee will furnish Lessor evidence that such insurance is in force before occupying the leased premises.

15. **UTILITIES.** All heat, water, electric current, gas or other utilities used on the leased premises shall be paid for by Lessee.

16. **ATTORNEY'S FEES.** In the event it becomes necessary for Lessor to employ an attorney to enforce collection of the rents agreed to be paid, or to enforce compliance of any of the covenants and agreements herein contained, Lessee shall be liable for reasonable attorney's fees, costs and expenses incurred by Lessor.

17. **KIND OF BUSINESS.** Lessee's use of the leased premises shall be for office space as needed for its routine operations.

18. **NOTICE.** Any notice provided for herein will be deemed to have been given Lessee when deposited in Registered or Certified mail addressed to Lessee at the leased premises or such other mailing address as Lessee may provide in writing to Lessor. Notices to Lessor shall be addressed to Lessor c/o County Manager, 115 West Main Street, Lincolnton, NC 28092.

19. **CONDEMNATION.** In the event that all of the leased premises shall be taken in condemnation proceedings or by exercise of any right of eminent domain, this Lease shall terminate as of the date of said taking, and all sums paid in advance shall be refunded to Lessee and Lessee shall surrender possession of the leased premises to Lessor. The award for such taking shall belong to Lessor. Lessee shall also be entitled to make claim in its own name to the condemning authorities for the value of any furniture, trade fixtures, trade equipment,

merchandise or personal property of any kind belonging to Lessee and not forming part of the real estate, or for the cost of moving all of the same, or for such other damages as to which Lessee may be entitled, and any such award made directly to Lessee shall belong entirely to Lessee.

20. **WAIVER OF BREACH.** The failure of Lessor to insist, in any one or more instances upon a strict performance of any of the covenants of this lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option, but the same shall continue and remain in full force and effect. Receipt by Lessor of any payment, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Lessor.

21. **QUIET POSSESSION.** Lessor covenants to keep Lessee in possession of the leased premises during said term. Nothing herein contained shall be construed as a warranty that the leased premises are in good condition or are fit or suitable for the use or purpose for which they are let.

22. **BINDING ON HEIRS, ETC.** It is further agreed by the parties to this lease that all of the covenants and agreements enumerated herein shall be binding upon both parties' legal representatives, heirs, assigns, and successors throughout the life of this instrument.

23. **SUBROGATION.** Lessor and Lessee hereby waive any right of subrogation which they may have against the other for any losses paid to them on policy or policies carried on the property.

24. **OUTSIDE STORAGE, TRASH, ETC.** Lessee agrees not to store any merchandise crates or materials of any kind outside the leased building. Lessee further agrees not to burn trash or other substances on the leased premises. All trash shall be kept and disposed of in accordance with the requirements of the City of Lincolnton.

25. **INSURANCE.** Lessee shall pay the premiums on such fire, casualty, and liability insurance coverage as the parties reasonably agree is adequate on the demised premises, and Lessee shall be responsible for the insurance coverage upon its personal property.

26. **TERMINATION OF LEASE.** Notwithstanding any other provisions herein contained, either party shall have the right to terminate this lease for any reason upon 180 days' written notice to the other party.

IN WITNESS WHEREOF, Lessor and Lessee have caused this lease to be signed by their duly authorized representatives, as of the day and year first above written.

Lessor:

LINCOLN COUNTY

By: _____
Alex E. Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

NORTH CAROLINA
LINCOLN COUNTY

This the ____ day of _____, 2010 personally came before me, Amy S. Atkins, Clerk to the Lincoln County Board of Commissioners, who being by me duly sworn says that she knows the common seal of the County of Lincoln, North Carolina, and is acquainted with Alex E. Patton, who is the Chairman of the Lincoln County Board of Commissioners, and that she, the said Amy S. Atkins, is the Clerk to the Lincoln County Board of Commissioners and saw the Chairman of the Lincoln County Board of Commissioners sign the foregoing instrument and affix said seal to said instrument and that she, the said Amy S. Atkins, signed her name in attestation of said instrument in the presence of said Chairman of the Lincoln County Board of Commissioners.

Notary Public

My Commission Expires: _____

Lessee:

LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC.

By: _____

Its: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is the _____ of LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him/her.

Witness my hand and notarial seal, this _____ day of _____, 2010.

Notary Public

My Commission Expires: _____

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve Resolution 2010-29: Resolution to Approve Lease of County-owned Property to Lincoln County Coalition Against Child Abuse, Inc.

Public Hearing – Proposed Industrial Development Incentive Grant for a Prospective New Industry and Motion to Approve Resolution #2010-30: Resolution to Adopt Economic Incentive Grant and Lincoln County Incentive Grant Agreement – Crystal Gettys: Crystal Gettys presented the Incentive Grant Agreement for .

Chairman Patton opened the public hearing.
Being no one wishing to speak, Chairman Patton declared the public hearing closed.

**RESOLUTION TO ADOPT ECONOMIC INCENTIVE
GRANT AGREEMENT WITH Zipper LLC**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, Zipper LLC has developed plans for a new manufacturing facility in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County and Zipper LLC.
2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.
3. This resolution shall become effective upon adoption.

This 7th day of June, 2010.

Alex Patton, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into as of the day of July, 2008, by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as "the County"), and ZIPPER LLC., a Kansas corporation (hereinafter referred to as "ZIPPER").

WITNESSETH:

WHEREAS, Zipper has developed plans for the construction of a new manufacturing facility in Lincoln County, North Carolina; and

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County's tax base and providing additional jobs for Lincoln County's citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect Zipper to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before October 1, 2010, Zipper shall begin construction of a new manufacturing facility in Lincoln County, North Carolina.
2. Within two years of the date of this agreement, Zipper shall make an investment upon such site in building and equipment of \$1,500,000, of which \$1,350,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the date of this agreement, Zipper shall provide at such site at least 10 new jobs paying average weekly wages of \$600.
4. In consideration of the performance of the aforesaid obligations by Zipper, the County will provide cash grants to Zipper of \$5,001.75 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to Zipper within 30 days after Zipper has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level I grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.
5. In the event that the value of the investment actually made by Zipper pursuant to this agreement is greater or less than the aforementioned contract amount, the incentive grants to be provided hereunder will be adjusted upward or downward on a pro-rata basis.
6. Zipper specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or

otherwise enjoined by a court of competent jurisdiction, Zipper shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

Zipper, LLC

By: _____
President

ATTEST:

Secretary (Corporate seal)

LINCOLN COUNTY

By: _____
Alex Patton, Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins
Clerk to the Board of Commissioners

NORTH CAROLINA

LINCOLN COUNTY

This the ____ day of _____, 2010, personally came before me _____ and acknowledged that he/she is Secretary of Zipper LLC, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him/her as its Secretary.

Witness my hand and official stamp or seal, this ____ day of _____, 2008.

My Commission Expires: _____
Notary Public

NORTH CAROLINA

LINCOLN COUNTY

This the ____ day of _____, 2010, personally came before me Amy S. Atkins, Clerk to the Board of Commissioners of Lincoln County, North Carolina, who being by me duly sworn says that she knows the common seal of the County of Lincoln, North Carolina and is acquainted with Thomas R. Anderson, who is the Chairman of the Board of Commissioners of Lincoln County, North Carolina, and that she, the said Amy S. Atkins, is the Clerk to the Board of Commissioners of Lincoln County, North Carolina, and saw the Chairman of the Board of Commissioners of Lincoln County, North Carolina, sign the foregoing instrument and affix said seal to said instrument and that she, the said Amy S. Atkins, signed her name in attestation of said instrument in the presence of said Chairman of the Board of Commissioners of Lincoln County, North Carolina.

My Commission Expires: _____

Notary Public

UPON MOTION by Commissioner Mitchem, the Board voted 4 – 1 (Carlton against) to approve the Lincoln County Industrial Development Incentive Grant for Zipper Inc. and Motion to Approve Resolution #2010-30: Resolution to Adopt Economic Incentive Grant and Lincoln County Incentive Grant Agreement.

Other Business: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to reappoint Cathy Kasem to the DSS Board.

Adjourn: **UPON MOTION** by Commissioner Carlton, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Alex E. Patton, Chairman
Board of Commissioners