

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, FEBRUARY 4, 2013**

The Lincoln County Board of County Commissioners met February 4, 2013 at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Alex E. Patton, Chairman  
Carl E. Robinson, Jr., Vice Chair  
James A. Klein  
Carrol D. Mitchem  
Cecelia A. Martin

Others Present:

George A. Wood, County Manager  
Martha W. Lide, Assistant County Manager  
Wesley L. Deaton, County Attorney  
Amy S. Atkins, Clerk to the Board

**Call to Order:** Chairman Patton called the February 4, 2013 meeting of the Lincoln County Board of Commissioners to order. Commissioner Patton gave the Invocation and led in the Pledge of Allegiance.

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

AGENDA  
Lincoln County Board of Commissioners Meeting  
Monday, February 4, 2013  
6:30 PM

James W. Warren Citizens Center  
115 West Main Street  
Lincolnton, North Carolina

Call to Order

Invocation - Commissioner Robinson

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda

- Tax Requests for Releases - Over \$100
    - December 15, 2012 - January 16, 2013
  - Minutes for Approval
  - Waived Fees
    - Rotary Auction
    - Homeschool Prom
  - Sponsored Group Status
    - Chamber of Commerce
  - Ordinance #2013-2: An Ordinance Amending the FY 2013 Budget for the County of Lincoln, North Carolina
  - Register of Deeds Records Retention Schedule
  - Acceptance of \$100,000 LSTA Project Technology Grant for RFID Self-Checkout Equipment for the library
  - Acceptance of \$20,000 LSTA Planning Grant for Community Needs Assessment and Strategic Planning for the library
  - Surplus Property
  - Resolution #2013-3: Resolution to Sell Howard's Creek Volunteer Fire Department a Surplus Dining Table for \$1.00
  - Special Events Fee Waiver Request for Special Olympics
3. Public Hearing to discuss whether Lincoln County should finance a speculative (shell) building for industrial use for the Lincoln Economic Development Association - George Wood
  4. Motion to approve the financing of a 60,000 square foot shell Industrial building for the Lincoln Economic Development Association
  5. Public Hearing Regarding a Lease with Borghetti - Crystal Gettys
  6. Public Hearing Regarding a CDBG (Community Development Block Grant) for Economic Development for Denver Global Products- Martha Lide
  7. Request for Approval of Community Transportation Program (CTP) Application - Ron Rombs
    - Public Hearing on Community Transportation Program
    - Motion to Approve Resolution 2013-4: Community Transportation Program Resolution (Federal)
    - Motion to Approve Resolution #2013-5: Human Service Agency Transportation Resolution
  8. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
  9. Motion to Approve the Second Amendment to the September 7, 2006 Lease

on the Bank of America Property at 100 E. Main Street, Lincolnton; and to authorize the County Attorney and County Manager to exercise the purchase option on or before April 1, 2013 - George Wood

10. Motion to Adopt Resolution #2013-6: A Resolution Adopting a Revised Schedule of Fees and Charges for the Combined Water and Sewer System of Lincoln County, North Carolina
11. Report on the Secondary Roads Construction Program - Michael Poe, PE, NCDOT Division Engineer
12. Annual Report from the Lake Norman Marine Commission Annual Report - Morris Sample
13. Annual Report from the Nursing and Adult Care Home Community Advisory Committee - Cindy Englert  
- Appointments to the Nursing and Adult Care Home Community Advisory Committee
14. Motion to Authorize the Chairman and County Clerk to execute a contract with JD Goodrum Company, Inc., apparent low bidder, in the amount of \$819,200 for the construction of Rock Springs Park - Don Chamblee, Erma Deen Hoyle
15. Motion to approve a Ground Lease for Alexis Fire Department for an Emergency Communications Tower - Martha Lide
- ~~16. Motion to Approve a Lease for Emergency Communications Tower with SBA Towers II LLC (962 Killian Farm Road) - Martha Lide~~
17. Resolution #2013-7: Resolution to Approve CDBG NC Catalyst Program Manual - Martha Lide
18. Other Business  
- December Tax Report
19. Closed Session - Closed Session Pursuant to N.C.G.S. 143-318.11

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy

issues may not be considered in a closed session.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adopt the agenda as presented.

**Consent Agenda:** **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the Consent Agenda.

- Tax Requests for Releases - Over \$100
- December 15, 2012 - January 16, 2013
- Minutes for Approval
- Waived Fees
  - Rotary Auction
  - Homeschool Prom
- Sponsored Group Status
  - Chamber of Commerce
- Ordinance #2013-2: An Ordinance Amending the FY 2013 Budget for the County of Lincoln, North Carolina
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- Surplus Property
- Resolution #2013-3: Resolution to Sell Howard's Creek Volunteer Fire Department a Surplus Dining Table for \$1.00
- Special Events Fee Waiver Request for Special Olympics

**LINCOLN COUNTY  
TAX DEPARTMENT**

**G.S. #105-381 (A) ALL RELEASES MORE THAN \$100  
AND #105-325 INCLUDING (A) (6)**

NAME	YEAR	A/C NO	AMOUNT
Allied Hoist and Crane LLC	2012	0242631	\$141.40
B-D&D Company Inc	2012	0236456	\$578.42
Beutel, Heidi Leticia	2012	0235442	\$118.35
Canipe, David Eugene	2012	0169676	\$111.64
Chapman, Larry Dale	2012	0243260	\$106.08

Hall, Constance Cashwell	2012	0243335	\$401.95
Hull, Jason S	2012	0208878	\$226.30
McGuirk, William Harrison	2012	0209601	\$201.20
Navarro, Gustavo	2012	0192790	\$168.18
Naylor, Adam Edward	2012	0203428	\$121.82
Romeo, Michael S	2012	0231662	\$104.17
Sutton, Kimberly Robirds	2012	0189581	\$102.41
Viva Motorsports LLC	2012	0233661	\$109.80
Webb, Alicia Kidd	2012	0242171	\$115.26
Whitbeck, Susan Diane	2012	0229886	\$171.61
Whitlock, Jeffrey William	2012	0133713	\$245.38
<b>TOTAL</b>			<b>\$3,023.97</b>

<b>NAME</b>	<b>YEAR</b>	<b>A/C NO</b>	<b>AMOUNT</b>
Brazilian Ju Jitsu	2011	0235622	\$245.63
Byers, Michael	2009-2012	0186557	\$258.76
Craig, Margaret E	2002	31259	\$1,053.54
Hoke, Ella	1999-2011	07687	\$1,988.93
Lincoln Plumbing	2010-2012	0216500	\$114.19
Smith, James C	2011-2012	0196024	\$162.00
<b>TOTAL</b>			<b>\$3,823.05</b>

**ORDINANCE #2013-:21: AN ORDINANCE AMENDING THE FY 2013 BUDGET  
FOR THE COUNTY OF LINCOLN, NORTH CAROLINA**

THAT WHEREAS, the Lincoln County Board of Commissioners adopted the FY 2013 Budget by approving Ordinance #2012-11 on June 28, 2012; and

WHEREAS, the Finance Director and County Manager are recommending further amendments as shown on the attachments herein; and

WHEREAS, the Lincoln County Board of Commissioners wishes to approve these proposed budget amendments;

NOW THEREFORE BE IT ORDAINED AND ESTABLISHED by the Board of Commissioners of Lincoln County, North Carolina, that the FY 2013 Budget previously adopted is hereby amended as follows:

Section 1. That the Capital Project Ordinance Amendment attached hereto, and incorporated herein by reference as Exhibit A to Ordinance #2013-2, is hereby approved and adopted as amendments to the FY 2013 Budget.

Section 2. That this amendment to the budget shall become effective immediately upon its adoption by the Board of Commissioners.

Passed and adopted this 4th day of February, 2012.

BY: \_\_\_\_\_  
Alex E. Patton, Chairman  
Lincoln County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Amy S. Atkins  
Clerk to the Board

**EXHIBIT A to Ordinance #2013-2**

Capital Project Ordinance Amendment numbered 10

**RESOLUTION #2013-3**

**RESOLUTION TO SELL HOWARD'S CREEK VOLUNTEER FIRE  
DEPARTMENT  
A SURPLUS DINING TABLE \$1.00**

**WHEREAS**, the County Commission is authorized to sell any real or personal property owned or held by the County, which is not needed for governmental or other public purposes (GS 160A, Article 12 and G.S.153A-176); and

**WHEREAS**, Lincoln County's process for disposal of surplus property was approved in March 2010 as part of the Purchasing Policy; and

**WHEREAS**, on a regular basis, lists are submitted to the Board of County Commissioners for approval to dispose of surplus property, and these lists often include equipment, furniture and vehicles; and

**WHEREAS**, the Howard's Creek Volunteer Fire Department, a non profit 501 (c) 3 organization, provides a valuable service to the residents of our County; and

**WHEREAS**, the Howard's Creek Volunteer Fire Department has requested to purchase a dining table from the County that is surplus which would be used for day to day operations;

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED,**

That Lincoln County agrees to sell the Howard's Creek Volunteer Fire Department a dining table that has been deemed surplus by the Board of County Commissioners for the price of \$1.00.

That this amendment shall become effective on February 4, 2013.

Adopted this 4th day of February 2013.

LINCOLN COUNTY

By:

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Alex Patton, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Atkins, Clerk to the  
Board of Commissioners

**Public Hearing to discuss whether Lincoln County should finance a speculative (shell) building for industrial use for the Lincoln Economic Development**

**Association:** George Wood discussed the unemployment rate for Lincoln County and presented the following:

As you recall, one of the priorities that you and the LEDA Board wanted to pursue was the construction of a speculative industrial building. Crystal Gettys, Don Chamblee and I have been working on this for some time. Prior to the economic downturn in 2008, LEDA had partnered with the Keith Corporation whereby they purchased some of the lots in the LC Industrial Park, and built a speculative building, rent or sold it, and then developed successive ones so that they always had a building available. In more recent years, despite the fact they still own a lot in the LC Industrial Park, Keith Corporation has not built a new speculative building.

Our major efforts were directed toward getting a private developer to build the speculative building on a lot in either the LC Industrial Park or the new Airlie Business Park. We prepared an RFP (request for proposals) and sent it to the major industrial building developers that we are aware of in the greater Charlotte region. There was very little response. We ended up having discussions with two companies, but both wanted serious incentives to build here.

For example, the Keith Corporation wanted:

- No property taxes on the building until it is either leased or sold.
- A tenant would still be eligible for our normal incentives on property tax grants for the five-year period.
- Waiver of any water and sewer tap fees.
- Waiver of any water and sewer capacity development fees.
- Waiver of plan review, building, mechanical, electrical, and plumbing permit fees.
- Include in the agreement that the County would take the building over at the developer's cost if it was not sold or leased in three years.

While we all have preferred to have a private sector entrepreneur assume the risk in this venture, it is apparent from their responses that they want to shift to the County a great deal of the cost, and ultimately, the risk of finding a tenant/buyer. There are two major concerns with Keith's proposal. 1) We would be forgoing a considerable amount of money in terms of property taxes, and the waiver of building permit fees, tap fees, and capacity development fees. 2) The County has no way of verifying what the developer's true cost of construction and financing would be. There would have been no public bidding process. And, he would have higher costs to borrow money than the County.

It is possible that we would be giving up more in lost revenues, and pay a higher price for the building if it did not lease or sell in the three-year time period, than if we simply built a building ourselves. The City of Shelby and Cleveland County did just that last year, and have already sold the building. They are now planning to duplicate that process with a second speculative building.



I have talked with Shelby City Manager Rick Howell and County Manager Eddie Bailes about their success. They have jointly developed an industrial park that is located inside the Shelby city limits. Shelby is the utility provider for water, sewer, electricity, and natural gas. They own the actual property. The shell building was financed with \$1,000,000 that Shelby had set aside in an economic development capital reserve fund; \$1,000,000 from a NC Department of Commerce low-interest loan to the county; and a \$1,000,000 grant from the Golden Leaf Foundation for Tier 1 Counties.

Shelby selected the Charlotte architectural firm Wash Hatem Nelson Architects, PA. The building was completed in September, 2011 for a total of \$2,560,000. (Incidentally, it was sold for over \$2,700,000, recouping all of their costs.) Rick suggested it would have cost about \$200,000 more, but they had done some site work in another contract to install the roads, and a batch concrete plant nearby had lowered their construction costs. So, I have used a cost figure of \$2,800,000 for the 100,000 square foot facility. Crystal Gettys is recommending a 60,000 square foot facility, later expandable to double that. That is based upon the inquiries LEDA has had over the last two years for available buildings. So, our costs would be about 60% of Shelby's. That would be \$1,680,000. I have included additional money for architectural services, and have used a figure of \$1,800,000.

Attached are two possible financing scenarios. The first is for an installment purchase contract for \$1,800,000 at 2.25% interest for 10-years. It has level principal payments, which is what the Local Government Commission of the NC State Treasurer's Office prefers on debt issuance. We, of course, would need their approval on any debt financing. Current rates are actually at 2.11%, but I wanted to be conservative. The second scenario is for the same amount, at 2.75% interest for 15-years. We believe that we can build and lease/sell the building within three years of borrowing the money. Shelby did it much faster than that. So, realistically, the comparison ought to focus on our carrying costs for the loan for the first three years.

As you can see from the amortization schedule, three annual payments for the 10-year loan would be \$649,350. Since we would in all likelihood recoup the principal amount when we sold the property, that would make the real cost the interest only, which would be \$109,350.

For the 15-year loan, three annual payments would be \$498,600, with the interest only cost being \$138,600. Since the interest cost is what our net cost would probably be, Deanna Rios and I are recommending that you finance it using the 10-year loan scenario.

The final issue, obviously, is how to pay for this additional debt service in the FY 2014 Budget and annually thereafter until the building is leased or sold. We have a number of industries whose five-year tax incentive grants expire this fiscal year. That will reduce our payments in FY 2014 by \$254,293.25. So, we can use most of that savings to pay this additional debt service for a speculative building, as the highest amount due would be \$220,500 in FY 2014. The payment would decline a little each year thereafter.

I realize and fully appreciate that publicly funding a speculative building would be a new venture for Lincoln County, but it is actually a very common practice around the country. I was reluctant to do it, because I prefer that the private sector take the risk. But I am recommending that we proceed with a publicly-financed building for four primary reasons: 1) statistics show that 80% of prospects today want a readily-available building, ie., a speculative, or shell building. If we don't have that availability in Lincoln County, we are out of the running on 80% of the prospects. Those are horrible odds for industrial recruitment success, and this county desperately needs more jobs. Our unemployment rate still hovers around 10%. 2) If you compare the \$109,350 in interest costs for the first three years to the cost of the Keith Corporation's laundry list of requested incentives, we may actually come out cheaper building ourselves. And, at the end of three years, the County would be on the hook for the building you built or partnered with the Keith Corporation. If we are assuming all this risk, then we should position ourselves to receive the full financial benefit when the property is leased or sold. 3) No private company can obtain financing at our extremely low rates, due to our tax-exempt status. Nor can they borrow the full amount like we can. Financial institutions would probably want at least a 20% down payment from them. 4) I have confidence in our LEDA staff, that if given this tool they will be able to lease or sell the building within a three-year period. They have an excellent track record, even during the last four years of a severe economic downturn. Aptar and Denver Global Products are two recent examples. And that success was in spite of not having this critical tool and having a Tier 3 rating. We are moving to Tier 2 in January, 2013.

Commissioner Robinson stated that the County Manager has done what he was asked to do by the Board and LEDA in this proposal due to the high unemployment rate. He said they have tried to get private funds for this project and cannot.

Commissioner Mitchem asked about using fund balance to pay this instead of borrowing the money, then returning it to fund balance when the spec building is sold.

Crystal Gettys spoke concerning the need for a spec building for industrial prospects in Lincoln County.

Chairman Patton opened the public hearing.

**Martin Oakes** said the cost for the Shelby building is \$300 per square foot and he believes they buried a bunch of infrastructure in there. He said local builders say this could be built for less than \$100 square feet. He said at \$600,000 this would be a good deal, at \$1.8 million not a chance.

**Cliff Brumfield** spoke concerning the clients that could not consider Lincoln County due to the fact that there were no spec buildings available. He said this building is a tool needed to market Lincoln County more effectively.

**Bruce Carlton** spoke against spending tax dollars on a spec building for industry.

**Terry Brotherton** spoke in favor of building the spec building saying that when he was on the Board the Industrial Park property was developed. He encouraged the Board to move forward with the spec building.

**Larry Craig** said he was on the Board when the property was purchased for the Industrial Park. He encouraged the Board to move forward in spite of the criticism.

**Rudy Bauer** spoke about paying sewer tax on automobiles and boats. He said the Board should take off some of the taxes, because they pay too many taxes for the County to speculate on this building.

**UPON MOTION** by Commissioner Robinson, the Board voted unanimously to continue the public hearing to the next meeting to allow more public input.

**Public Hearing Regarding a Lease with Borgetti:**

Crystal Gettys presented a Ground Lease for a potential new industry in the Lincoln County Industrial Park. They are offering this lease as an alternative to the normal incentives package. She said the decision has not been made by the company yet to locate in Lincoln County, so this is not an announcement.

Chairman Patton opened the public hearing.

Martin Oakes spoke concerning the lease and said it was a terrible deal for Lincoln County.

Being no additional speakers, Chairman Patton declared the public hearing closed.

**UPON MOTION** by Commissioner Klein, the Board voted unanimously to request the County Attorney to change the proposed contract to say that even after being signed by the Chairman or County Manager, it is still subject to public hearing and final approval by the Board.

**Public Hearing Regarding a CDBG (Community Development Block Grant) for Economic Development for Denver Global Products:** Martha Lide presented the following:

This is the second public hearing for CDBG funds. The first was held December 3, 2012. This public hearing is to discuss specifics for the project. We plan to request \$396,000 in CDBG funds for public water and sewer improvements for Denver Global/RATO power company project to be located in eastern Lincoln County. The project includes 4,800 linear feet of water line, a force main and 4,000 feet of gravity sewer. The CDBG funds represent 47% of the total project, it will be a total project of \$843,800. Other funding

will come from the Rural Center Grant, which will be \$406,900 and a \$40,000 local match.

The project will result in a \$40 million investment and will create over 350 jobs in the first two years and over long term to be closer to 587 jobs.

Chairman Patton opened the public hearing.

**Martin Oakes** asked why they can't all be done this way; free money, not spending a dime and getting 450 new jobs.

Being no additional speakers, Chairman Patton declared the public hearing closed.

**Request for Approval of Community Transportation Program (CTP) Application:**

Ron Rombs presented the following:

Mr. Rombs requested that the Board of Commissioners approve the CTP application in the sum of \$394,813.

Lincoln County is required to provide matching funds to support the Community Transportation Program. Matching funds are 15% of the Administrative cost and 10% of the Capital cost.

Total NC DOT Budget		Lincoln County Matching Funds	
<b>Administrative</b>	\$218,163	15% match	\$32,724
<b>Capital</b>	\$98,350	10% match	\$9,835
<b>TOTAL</b>	\$316,513	<b>Match</b>	<b>\$42,559</b>

The Administrative cost will cover the salaries and benefits for the Transportation Manager, Transportation Supervisor, Administrative Secretary and 50% of the Medicaid Transportation Coordinator positions of TLC.

Capital cost will cover the replacement of one wheelchair van (T-16), one expansion wheelchair van, communications and video safety equipment and office furniture for TLC.

**UPON MOTION** by Commissioner Robinson, seconded by Commissioner Klein, the Board voted unanimously to approve Resolution #2013-4: Community Transportation Program Resolution (Federal).

**UPON MOTION** by Commissioner Mitchem, seconded by Commissioner Martin, the Board voted unanimously to approve Resolution #2013-5: Human Service Agency Transportation Resolution.

Chairman Patton opened the public hearing. Being no speakers, Chairman Patton closed the public hearing.

**Public Comments:** Chairman Patton opened public comments.

Robert Avery spoke concerning the State Constitution.

Being no additional speakers, Chairman Patton closed public comments.

**Motion to Approve the Second Amendment to the September 7, 2006 Lease on the Bank of America Property at 100 E. Main Street, Lincolnton; and to authorize the County Attorney and County Manager to exercise the purchase option on or before April 1, 2013:** Mr. Wood presented the following:

The County entered into a lease with an option to purchase the Bank of America Building beginning in September, 2006. The lease/purchase agreement was renewed in 2009 for a three-year term with two one-year automatic renewals. That means the lease/purchase agreement will terminate on September 30, 2014.

The purchase price is \$1,300,000, and 100% of the monthly lease payments go toward the purchase price both in the original lease and in the 2009 extension. Through December 31, 2012, the County had made payments of \$336,590.01. The County pays one month in advance, at \$3,273.15 per month. When the lease was renewed in 2009, the owner agreed to accept payments that were 50% of what the County had been paying monthly. The current amount paid to date is \$343,136.31.

The decision has been made to purchase the building, as was discussed prior to making the decision to re-roof it, replace the HVAC system, and then remodel the second-floor Register of Deeds Office.

Under the current terms of the agreement, the County would make 19 more monthly payments, or a total of \$62,189.85, and then close on the property in the last month. The remaining principal balance at that point would be \$894,653.84. That would need to be financed over a 10-year period. The total principal and interest payments would be \$1,009,661. With the \$62,189.85 for the 19 monthly payments, and the remaining total to be paid for full ownership would be \$1,071,850.85.

The current landlord has been purchased by another property development and management company, subject to the lease/purchase agreement. This company contacted him to see if the County would be willing to consider purchasing the building earlier if they discounted the purchase price \$200,000.

Wesley Deaton has reviewed everything and prepared a second amendment to the lease for execution.

If the County accepts this offer, the outstanding balance would be reduced by \$200,000 to \$753,590.54, as there would be one additional monthly payment on February 4. That price would be purchased over a 10-year period. The interest rate would not exceed 2.25%. The total cost of principal and interest on this option would be \$847,308.

**UPON MOTION** by Commissioner Martin , the Board voted unanimously to approve the Second Amendment to Lease Agreement.

**STATE OF NORTH CAROLINA**

**COUNTY OF LINCOLN**

**SECOND AMENDMENT TO LEASE AGREEMENT**

**THIS SECOND AMENDMENT TO LEASE AGREEMENT** ("Amendment") is made and entered into effective the \_\_\_\_ day of February, 2013, by and between First States Investors 4150, LLC, a Delaware Limited Liability Company ("Landlord") and Lincoln County, a Body Corporate and Politic authorized by the laws of the State of North Carolina ("Tenant"), the Landlord and Tenant referred to collectively herein as the "Parties."

**RECITALS:**

A. Landlord and Tenant are parties to a certain Lease Agreement dated as of September 7, 2006 (the "Lease"), wherein Landlord leased to Tenant the real property and improvements thereon, located at 100 E. Main Street, Lincolnton, North Carolina 28092 (collectively, the "Premises"), all as is more fully described in the Lease.

B. On or about the 19<sup>th</sup> day of August, 2009, Landlord and Tenant executed a First Amendment to the Lease, by which the terms of the Lease, together with an Option to Purchase contained therein, were extended.

C. The parties desire to amend the Lease and Option to Purchase as further set forth herein below.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and promises contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. The Landlord notice addresses in Section 1.12 of the Agreement, entitled, "Notices" are deleted in their entirety and inserted in lieu thereof are the following:

First States Investors 3647, LP  
c/o Joshua Pack  
10250 Constellation Blvd. Suite  
1600  
Los Angeles, CA 90067

With a copy to:  
Skyline Sansome Branch Manager, LLC  
c/o David Moore  
558 Sacramento Street, # 400

San Francisco, CA 94111

2. Paragraph 1 of Exhibit "B" of the Agreement (the Purchase Option Rider) is deleted in its entirety and inserted in lieu thereof is the following:

Option to Purchase. Landlord hereby grants to Tenant the right and option to purchase the Premises as follows:

Provided Tenant is not then in default of its obligations under this Lease, Tenant shall have the right to purchase the Premises ("Purchase Option") at any time during the Term for a purchase price equal to One Million One Hundred Thousand and 00/100 (\$1,100,000.00) Dollars ("Purchase Price") exercisable by Tenant giving Landlord written notice at least twenty (20) days prior to the closing date (which closing date must be no later than April 1, 2013). If Tenant fails to exercise the Purchase Option as provided herein, then all rights of Tenant under this Purchase Option Rider with respect to the Purchase Option, including, without limitation Tenant's right to purchase the Premises, shall automatically terminate without further action of Landlord or Tenant.

3. The first sentence of subparagraph 2(i) is deleted in its entirety and inserted in lieu thereof is the following:

Tenant shall deposit with Landlord the sum of Ten Thousand and No/100 Dollars ("Deposit") together with its Purchase Notice, which Deposit shall be credited to Tenant at closing on account of the Purchase Price.

4. Subparagraph 2(iv) is deleted in its entirety and in lieu thereof is inserted the following:

At closing, Landlord shall be responsible for all excise taxes due by reason of the conveyance.

5. Subparagraph 2(v) is deleted in its entirety and in lieu thereof is inserted the following:

Tenant shall pay to Landlord all Basic Rent and Additional Rent accruing to and including the date of closing. All Basic Rent paid by Tenant during the Term of the Lease and up to the date of closing (which the parties agree is \$346,409.46 as of February 28, 2013) shall be credited toward the Purchase Price at closing. This Lease shall continue in full force and effect until the date of closing.

All capitalized terms not defined herein shall have the same meaning as contained in the Agreement. Except as modified herein, all other terms of the Agreement shall continue in full force and effect.

**IN WITNESS WHEREOF**, the Parties have executed this Amendment on the day and year first above written.

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**Motion to Adopt Resolution #2013-6: A Resolution Adopting a Revised Schedule of Fees and Charges for the Combined Water and Sewer System of Lincoln County, North Carolina:** Mr. Wood presented the following:

As part of the Water and Sewer Rate Study performed by Raftelis Financial Consultants, Inc., they recommended that we phase in an equalization of sewer rates between commercial and residential customers. Currently, we charge commercial customers \$5.72 per 1,000 gallons for sewer, and residential customers \$4.72 per 1,000 gallons. There is no significant difference in the cost to collect and treat this waste, so the rates should be the same. Dealing with the issue is one of your goals from the FY 2014 Budget Retreat.

We are not in a position to make this change in one year. I am proposing that you do so over the next three fiscal years. I am recommending that we leave the residential rate where it is, but reduce the commercial rate by \$.34 per 1,000 gallons for FY 2014, and by \$.33 in each of the next two years. That would equalize the commercial and residential sewer rates within three fiscal years.

The impact of a \$.34 decrease on commercial sewer customers is as follows:  
\$.33 divided by \$5.72 equals a 5.8% loss of sewer revenues

\$384,816	Total annual commercial sewer revenues
x 5.9%	
\$ 22,704	Total sewer revenue reduction in FY 2014 due to rate change

We can absorb this loss of revenue due to growth in the customer base during this year. We should have enough growth each of the three years to phase this in without affecting the financial position of the Water and Sewer Fund.

The second recommendation that Raftelis made was to reduce the first tier maximum for the residential water and sewer rates from 15,000 to 10,000 gallons over a three-year period. This means that a customer exceeding 15,000 gallons per month currently pays a higher rate only after using 15,000 gallons. The recommendation is to encourage conservation by lowering that ultimately to 10,000 gallons per month.

I am recommending that you lower the 15,000 gallon maximum for the lower rates to 13,000 gallons per month. This also is a goal to be addressed from the FY 2014 Budget Retreat.

Both rate changes would become effective with the water and sewer bills mailed on or after July 1, 2013.

I have attached the resolution to reduce the commercial sewer rate by the \$.33, and to change the maximum for the first tier of residential water and sewer consumption from 15,000 gallons per month to 13,000 gallons per month.

**UPON MOTION** by Commissioner Robinson, the Board voted unanimously to approve Resolution #2013-6: A Resolution Adopting a Revised Schedule of Fees and Charges for the Combined Water and Sewer System of Lincoln County, North Carolina.

RESOLUTION #2013-6: A RESOLUTION ADOPTING A REVISED SCHEDULE OF FEES  
AND CHARGES FOR THE COMBINED WATER AND SEWER SYSTEM OF LINCOLN  
COUNTY, NORTH CAROLINA

THAT WHEREAS, Lincoln County owns and operates a combined water and sewer system, which is funded from the fees and charges for services paid by the customers of said system; and

WHEREAS, the Board of Commissioners had engaged the professional services of Raftelis Financial Consultants, Inc. to conduct a study of the existing rate structure for water and sewer tap fees, capacity development fees, base charges, and volumetric charges; and

WHEREAS, following receipt of the report the Board of Commissioners had changed the rate structure in August, 2010 and October, 2010; and

WHEREAS, the Study recommended two further changes that the county is now in a financial position to implement, and the County Manager and Public Works Director have recommended these changes to begin equalizing the commercial, industrial and residential sewer rates; and to lower the maximum for the first tier on residential water and sewer rates; and

WHEREAS, the County Manager and Public Works Director have prepared an amendment to the **Schedule of Fees and Charges for Water and Sewer Services**, which includes these two changes; and

WHEREAS, the Board of Commissioners wishes to adopt these changes in the water and sewer fees and charges;

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of Lincoln County, North Carolina as follows:

SECTION 1. That the **Schedule of Fees and Charges for Water and Sewer Services**, attached hereto and incorporated herein as Attachment #1 to this Resolution, is hereby adopted as the approved fees and charges for the combined water and sewer system owned and operated by Lincoln County.

SECTION 2. That these fees and charges shall become effective for all billings of water and sewer on or after July 1, 2013, and shall remain in full force and effect until amended by a subsequent resolution of the Board of Commissioners.

Passed and adopted this 4th day of February, 2013.

**Report on the Secondary Roads Construction Program** - Michael Poe, PE, NCDOT  
Division Engineer presented the following:

North Carolina Department of Transportation  
Lincoln County Secondary Roads Construction Program  
2012– 2013 Paving Priority.

FY 2012-2013 Allocation

Highway Fund (G.S 136-144b, c)	\$ 277,293.30
Trust Fund (G.S. 136-182)	\$ 367,884.11
<b>Total</b>	<b>\$ 645,177.41</b>

I. Paving Unpaved Roads

Programmed Paving Goal: 0.51 Miles

A. Rural Paving Priority

<u>Priority Number</u>	<u>SR No.</u>	<u>Length (Miles)</u>	<u>Road Name and Description</u>	<u>Est. Cost</u>
1	SR 1421	0.51	Reep Brothers Road (Complete Funding)	\$320,000

Total Miles 0.51

Subtotal \$320,000.C

\* Rural Paving Alternates

<u>Priority Number</u>	<u>SR No.</u>	<u>Length (Miles)</u>	<u>Road Name and Description</u>	<u>Est. Cost</u>
HL	SR 1921	0.75	Leonard Road	\$385,000
2	SR 1415	0.25	White Oak Farm Road	\$135,000
3	SR 1288	0.28	McDaniel Springs Road	\$150,000
4	SR 1188	0.19	JW Huss Road	\$100,000
5	SR 1684	0.21	Indian Creek Primitive Church Road	\$115,000
6	SR 1234	0.05	Harvey Road	\$30,000
7	SR 1429	0.22	Bob Dellinger Road	\$120,000
8	SR 1163	0.40	Vellis Wright Road	\$220,000
9	SR 1440	0.10	Hauss Road	\$55,000

\* In the event that any roads in priority have to be placed on the “Hold List” due to unavailable right of way or environmental review, or if additional funding becomes available, funds

will be applied to the roads listed in priority order in the paving alternate list.

## II. General Secondary Road Improvements

### A. Paved and Unpaved Road Improvements

<u>SR No.</u>	<u>Project Description</u>	<u>Est. Cost</u>
SR 1361	Grade, Drain, and Rehabilitate SR 1361 (Paysour Pond Road) from SR 1360 to Mountain Creek Road (0.90 mi.).(PARTIAL FUNDING)	\$290,000
None	Maintenance functions on various roads as needed. Functions may include spot stabilization, paved road improvements, replacement of small bridges with pipes, safety projects, etc.	\$0

Total Miles 0.90

Subtotal \$ 290,000.00

### B. Unpaved Road Spot Improvements

None		\$0
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Subtotal \$ 0.00

III. Funds reserved for surveying, right of way acquisition, road additions, contingencies, overdrafts, and paving entrances to certified fire departments, rescue squads, etc.

Subtotal \$35,177.41

GRAND TOTAL \$645,177.41

#### NOTES:

1. PROGRAM SUBJECT TO AVAILABILITY OF FUNDING, RIGHT OF WAY, AND ENVIRONMENTAL REVIEW.

**Annual Report from the Lake Norman Marine Commission Annual Report - Morris**

Sample presented the annual report from the Lake Norman Marine Commission.

**Annual Report from the Nursing and Adult Care Home Community Advisory Committee - Cindy Englert:** Cindy Englert presented the annual report from the Nursing and Adult Care Home Community Advisory Committee.

**Appointments to the Nursing and Adult Care Home Community Advisory Committee:** UPON MOTION by Commissioner Robinson, the Board voted unanimously to appoint Sarah Dalton, Carolyn Avery, and Diane Painter.

**Motion to Authorize the Chairman and County Clerk to execute a contract with JD Goodrum Company, Inc., apparent low bidder, in the amount of \$819,200 for the construction of Rock Springs Park** - Erma Deen Hoyle presented the following:

Rock Springs Nature Preserve Parks is a 116 acre site in eastern Lincoln County which is being developed and is partially funded by a \$415,000 PARTF grant. The new park will create a unique opportunity for a conservation themed park facility and provide public access to a nature preserve. The County advertised the project and received ten bids on January 22, 2013 ranging from \$819,200 to \$957,000.

Ms. Hoyle requested that the Board of Commissioners authorize the Chairman of the Board to execute the contract with the apparent low bidder, JD Goodrum Company, Inc. in the amount of \$819,200 for the construction of Rock Springs Nature Preserve.

UPON MOTION by Commissioner Klein, the Board voted unanimously to authorize the Chairman and County Clerk to execute a contract with JD Goodrum Company, Inc., apparent low bidder, in the amount of \$819,200 for the construction of Rock Springs Park.

**Motion to approve a Ground Lease for Alexis Fire Department for an Emergency Communications Tower** - Martha Lide presented the following information:

It is recommended that the Board approve the Ground Lease for space located behind the Alexis Fire Department Headquarters Building to be used for construction of a tower that will be part of our emergency radio communications network.

Lincoln County began working on a multiphase project to improve our emergency radio communications system in 2008 when an evaluation of the existing Tait Simulcast was conducted revealing many system failures and “dead spots.” Phase 1 of this project, which was completed in February 2011, included changing the system to meet FCC narrowband requirements, making emergency repairs to keep the system operational, and addressing the main core infrastructure needs for dispatch channels. Phase 2 of this project, which was approved in October 2011, included, in addition to other system improvements, the addition of 5 new receiver sites (North Brook, Union /Central, South West Area, Killian Farm Road Area and Mt. Zion Southeast /Central area) to improve

talk back coverage.

We had originally anticipated the construction of five new towers for these receiver sites, however, as this project has developed, we have determined that we only need to construct two towers. For the other sites, we will be leasing space on existing towers, and utilizing our existing water tank.

The Ground Lease was prepared by our County Attorney. It has been presented to and approved by the Alexis Volunteer Fire Department Board. Some of the major points of the lease are as follows:

- ☐ There is a 30-year initial term from February 4, 2013 through February 3, 2042 with two 5-year renewal options.
- ☐ Rent will be \$1.00 per year.
- ☐ It allows Lincoln County to construct a tower, the support building and fencing infrastructure on the property
- ☐ It allows Alexis Volunteer Fire Department to install a point-to-point antenna on the tower. This will improve their communications system.
- ☐ Requires Lincoln County to maintain and insure the premises and the improvements
- ☐ This Ground Lease and the construction of the tower are contingent on approval of a zoning variance request which will be submitted to the Gaston County Board of Adjustment on February 21, 2013.

**UPON MOTION** by Commissioner Mitchem , the Board voted unanimously to approve the Ground Lease with Alexis Fire Department as incorporate by reference and kept on file in the Clerk's office.

**Resolution #2013-7: Resolution to Approve CDBG NC Catalyst Program Manual** – Martha Lide presented the following:

## **LINCOLN COUNTY COMMUNITY DEVELOPMENT PROGRAM PROGRAM MANUAL RESOLUTION**

A Resolution Authorizing the Adoption of the Program Manual for the Lincoln County FY 11 Community Development Program.

Be it Resolved by the Board of Commissioners of Lincoln County, North Carolina, that: WHEREAS, the County is participating in the Community Development Block Grant Program under the Housing and Community Development Act of 1974, as amended, administered by the North Carolina Department of Commerce; and

WHEREAS, the following documents are required under this program;

- Equal Employment and Procurement Plan
- Local Economic Benefit For Low And Very Low Income Persons Plan
- Section 504
- Citizen Participation Plan
- Residential Anti-Displacement And Relocation Assistance Plan
- Optional Coverage Relocation Plan
- Code Of Conduct/Hatch Act Policy/Section 519
- Acquisition Guidelines
- Disposition Guidelines
- Relocation Guidelines
- Clearance Guidelines
- Rehabilitation Guidelines
- Rehabilitation/Reconstruction Guidelines
- Hook Up Guidelines
- Public Facility Guidelines
- Complaint Procedure
- Contracts Officer Designation
- Labor Standards Officer Designation
- Verification Officer Designation
- Just Compensation Officer Designation
- Financial Management Procedure

THAT, Martha W. Lide, Assistant County Manager is hereby authorized to execute any and all Grant

related documents; and

THEREFORE BE IT RESOLVED, that the Board of Commissioners of Lincoln County, North Carolina, hereby adopts the Program Manual to be used throughout the implementation of the Lincoln County FY 11 Community Development Program.

Adopted this 4th day of February, 2013.

Alex Patton, Chairman, Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the Board

**UPON MOTION** by Commissioner Martin, the Board voted unanimously to approve Resolution 2013-7 and the Language Access Plan as presented.

Mr. Wood said Cooperative Extension would like to meet with the Board at 5:00 p.m. on March 18, 2013 to give their annual report.

**Closed Session Pursuant to N.C.G.S. 143-318.11 : UPON MOTION** by

Commissioner Mitchem, the Board voted unanimously to enter closed session pursuant to NCGS 143-318.11

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session.

Chairman Patton announced no action was taken in closed session.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Alex E. Patton, Chairman  
Board of Commissioners