

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, JUNE 6, 2016**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on June 6, 2016, at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Cecelia A. Martin, Chairman  
Carrol Mitchem, Vice Chair  
Martin Oakes  
Bill Beam  
Alex E. Patton

Planning Board Members Present:

Christine Poinsette, Chairman  
Dr. Crystal Mitchem, Secretary  
Jeffrey Todd Burgin  
John Dancoff  
Floyd Dean  
Jamie Houser  
Keith Johnson  
Greg Smith  
Andrew Robinson

Others Present:

Kelly G. Atkins, County Manager  
Wesley Deaton, County Attorney  
Amy S. Atkins, Clerk to the Board

**Call to Order:** Chair Cecelia Martin called the meeting to order. She led in a Moment of Silence and the Pledge of Allegiance.

**Adoption of Agenda:** Chair Martin presented the agenda for the Board's approval.

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, June 6, 2016**  
**6:30 PM**

**James W. Warren Citizens Center**  
**115 West Main Street**

## Lincolnton, North Carolina

### Call to Order

1. Adoption of Agenda
2. Consent Agenda
  - Home and Community Care Block Grant (HCCBG) FY 17 Funding Plan
  - Tax Requests for Releases - 4/16/16 - 5/15/16
3. Zoning Public Hearings - Randy Hawkins

PD #2016-3 NLA JKS Lincoln, LLC, applicant (Parcel ID# 30725) A request to rezone 16.7 acres from R-T (Transitional Residential) and B-G (General Business) to PD-C (Planned Development-Commercial) to permit a commercial complex with a total building area of 87,460 square feet. The property is located on the north side of N.C. 73 and east side of N.C. 16 bypass in Catawba Springs Township.

CUP #344-R ATOOD, LLC (Parcel ID# 31055, 83109, 84267 and 89986) A request to renew a conditional use permit to establish a solar farm in the R-T (Transitional Residential) and R-R (Rural Residential) districts. The proposed 129-acre site is located on the west side of Mariposa Road about 1.5 miles south of Old Plank Road in Catawba Springs Township.

CUP #355 Randall and Tiffany Allen, applicants (Parcel ID# 82557) A request for a conditional use permit to place a Class C (singlewide) manufactured home in the R-S (Residential Suburban) district. The 0.73-acre parcel is located on the south side of N.C. 27 and west side of Voyd Brendle Road in North Brook Township.

CUP #356 Ronnie Dedmon, applicant (Parcel ID# 77435 and 77436) A request for a conditional use permit to establish a self-storage facility in the B-G (General Business) district and Eastern Lincoln Development District (ELDD). The proposed 2.0-acre site is located on the north side of Campground Road and west side of Dusty Ridge Court in Catawba Springs Township.

WSCUP #22 Ronnie Dedmon, applicant (Parcel ID# 77435 and 77436) A request for a watershed conditional use permit to use the high-density option in the Catawba River/Lake Norman WS-IV Protected Area. The applicant is proposing to develop a 2.0-acre site for a self-storage facility. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. The property is located on the north side of Campground Road and west side of Dusty Ridge Court in Catawba Springs Township.

PCUR #140-2A Westport Construction Partners, LLC (Parcel ID# 91829) A request to amend a conditional use planned development district to alter the layout of an area approved for 74 zero lot-line houses and to allow 49 additional zero-lot-line houses in a portion of an area approved for 52 single-family detached houses, decreasing the number of single-family detached houses by 19. The request involves a 36.7-acre tract located south of Shanklin Lane and north of Lake

Shore Road South in Catawba Springs Township.

4. Performance Guarantee Extensions for Trilogy (Carolina Ridge) - Josh Grant
  - Parcel B/C Map 4 & 6
  - Parcel B/C Map 5 & 7
  - Parcel A Map 1
  - Waterline Utility Infrastructure - Station 32 + 50
  - Parcel G/H Map 3
5. Public Hearing - Fiscal Year 2017 Budget and CIP
6. Motion to Adopt Ordinance Adopting the Lincoln County Budget for Fiscal Year 2016-2017
7. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
8. Purchase of Polling Booths - Bradley Putnam
9. Resolution (1) Authorizing Pursuing an Installment Financing, (2) Making Certain Findings and Appointments and Requesting Approval of the Local Government Commission and (3) Calling a Public Hearing Relating to the Installment Financing - Deanna Rios
10. Friends of the Library Funding Request - Rebecca Powell
11. Approval of Modification of Lease Agreement between Lincoln County and Gaston Family Health Services for land for construction of new Helping Hands Facility - Robert Spencer
12. Approval to Accept \$19,350 Library Services and Technology (LSTA) EZ Planning Grant, 2016-17 - Jennifer Sackett
13. Approval to Accept \$50,000 Library Services and Technology Act (LSTA) EZ Literacy and Lifelong Learning Grant , 2016-2017 - Jennifer Sackett
14. Other Business
15. Closed Session Pursuant to NCGS § 143-318.11. (a) (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award. (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

Adjourn

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

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

Home and Community Care Block Grant (HCCBG) FY 17 Funding Plan  
- Tax Requests for Releases - 4/16/16 - 5/15/16

\*All items listed in the consent agenda are hereby incorporated by reference and are on file in the Clerk's office.

### **New Business/Advertised Public Hearings:**

**PD #2016-3 NLA JKS Lincoln LLC, applicant:** Randy Hawkins presented the following information:

The applicant is requesting the rezoning of 16.7 acres from R-T (Transitional Residential) and B-G (General Business) to PD-C (Planned Development Commercial) to permit a commercial complex with a total building area of 87,460 square feet. Under the Lincoln County Unified Development Ordinance, any proposed commercial development in excess of 50,000 square feet is subject to review through the planned development process.

A site plan for the proposed development has been submitted as part of the rezoning application and would serve as the master plan for the development if the rezoning request is approved. A traffic study has also been submitted, recommending road improvements to mitigate the impact of the proposed development.

### **SITE AREA AND DESCRIPTION**

The property is located on north side of N.C. 73 and east side of N.C. 16 bypass. It is adjoined by property zoned CU B-G (Conditional Use General Business), B-G, R-T and IG (General Industrial). A Walmart store is located on the east side of this property. (The proposed development would be accessed by existing driveways that serve the Walmart store and by driveway connections to the Walmart site.) Land uses in this area include business and residential. Public water and sewer are available at this location.

### **ENVIRONMENTAL**

This property is not located in a water-supply watershed. This site was graded when the Walmart site was developed. The Walmart project included a stormwater detention basin that was designed to also serve this site upon its development.

### **PLAN CONFORMANCE**

This property is part of an area designated by the Lincoln County Land Use Plan as Regional Business, suitable for larger sized stores and other businesses that rely on large customer bases. Guiding Principle 6 of the Land Use Plan calls for well-designed and well-integrated developments in terms of internal connectivity and access to adjoining tracts.

Chair Martin opened the public hearing concerning PD #2016-3 NLA JKS Lincoln LLC, applicant.

Chad Williams said a right decel lane will be installed on Business 16 and a dedicated right turn lane out of the Walmart site.

Jay Clapp, with Ramey Kemp and Associates answered questions concerning the traffic improvements. He said they looked at AM and PM weekday peak hours for the traffic counts.

Commissioner Oakes said he was at the community meeting and there were citizens speaking about not being able to turn left out of Walmart. Mr. Clapp said DOT wants to keep traffic moving so they typically will not put a protected phase at intersections.

Being no additional speakers, she declared the public hearing closed.

**CUP #344 – R ATOOD, LLC, applicant:** Randy Hawkins presented the following information:

#### REQUEST

The applicant is requesting to renew a conditional use permit to establish a solar farm in the R-T (Transitional Residential) and R-R (Rural Residential) districts. The Board of Commissioners approved a conditional use permit (CUP #344) for the proposed project on June 8, 2015. Under the Unified Development Ordinance, an approved conditional use permit expires 12 months from the date of approval unless a complete building permit application has been submitted.

Under the UDO, a solar farm is a conditional use in the R-T and R-R districts and is subject to certain standards.

#### SITE AREA AND DESCRIPTION

The proposed 129-acre site is located on the west side of Mariposa Road about 1.5 miles south of Old Plank Road in Catawba Springs Township. The site is adjoined by property zoned R-T and R-R. Land uses in this area are primarily residential and agricultural. The site is located in an area designated by the Lincoln County Land Use Plan as Suburban Residential.

#### SOLAR FARM STANDARDS

The UDO establishes the following standards for a solar farm:

##### **§4.3.7. Solar Farm**

**A.** All structures and security fencing shall be set back a minimum of 50 feet from property lines and road right-of-ways.

**B.** Where a site abuts a public road or property with a residential use, the following screening shall be provided unless a modification is approved by the Board of Commissioners: two parallel rows of evergreen trees or shrubs, a minimum of five feet in height at planting, arranged in a staggered manner a maximum of 10 feet apart in each row, with the rows a maximum of 10 feet apart.

**C.** No panel structures shall be greater than 20 feet in height.

**D.** The electrical collection system shall be placed underground except near points of interconnection with the electric grid.

**E.** A map analysis showing a radius of five nautical miles from the center of the project with any airport operations in the area highlighted shall be submitted with the conditional use permit application. If a Federal Aviation Administration (FAA) regulated airport is located within the radius, all required information shall be submitted to the FAA for review. Proof of delivery of notification and date of delivery shall be submitted with the permit application.

**F.** A decommissioning plan signed by the party responsible for decommissioning and the landowner shall be submitted with the permit application and shall be recorded with the Register of Deeds prior to final electrical inspection. The plan shall include the following information: defined conditions upon which decommissioning will be initiated, the anticipated manner in which the solar farm project will be decommissioned and the site restored, a timetable for completion of decommissioning, description of any agreement with the landowner regarding decommissioning, the party responsible for decommissioning, and plans for updating the decommissioning plan.

**G.** A solar farm that ceases to produce energy on a continuous basis for 12 months shall be considered abandoned and the property owner and other responsible party shall be required to decommission the facility and restore the site to its prior condition within 12 months from the time that the facility is deemed to be abandoned, unless substantial evidence is presented to the Director of the intent to maintain and reinstate the operation of the facility.

**H.** In the event the property owner and/or responsible party fail to timely decommission the solar farm facility as required above, Lincoln County and the Director shall be entitled to take all measures allowed by this UDO and the North Carolina General Statutes, including, but not limited to, the right to levy penalties as provided in §11.2.1, the right to obtain a permanent injunction ordering the removal of such solar farm facility, and the right to obtain a court order permitting Lincoln County to remove such solar farm facility.

Commissioner Oakes if conditions could be added or changed since this is back before the Board. Mr. Hawkins said it does open it back up.

Chair Martin opened the public hearing concerning CUP #344-R – ATOOD, LLC, applicant.

William Siler, with ATOOD, said they are here to renew the CUP they received a year ago with unanimous Planning Board and 4 – 1 Commissioner approval. He said the findings of fact were approved and nothing has changed. They have reached hurdles with Duke and would like an extension with regards to time. The site plan has changed, the interconnection with Duke and access point on Mariposa has been moved.

Commissioner Beam asked if solar farms make money and if they receive a subsidy.

Mr. Siler said they do make money and there is a 35% tax credit.

Brian Adams said they want to be a good neighbor in Lincoln County. He said solar farms bring benefits to the area and solar is the frontrunner to industry. He said they are purchasing this property prior to the solar being installed.

Greg Smith asked if this will reduce the energy cost – electrical rate for consumers around it. Mr. Adams said if he could sell the energy directly, it would.

Floyd Dean asked the life of the panels. Mr. Adams said they have a life of at least 25 years to produce 80% output. Based on studies and data, they expect this system to be running 40 years. Mr. Dean asked about decommission and removal at the end of the panels. Mr. Adams said they are responsible. Mr. Dean asked if any of the materials are hazardous. Mr. Adams said there may be a trace amount, but it is unlikely.

Mr. Dean said on the internet, you can read articles that contradict what is being said. Mr. Adams said at previous meetings, there were experts that testified. He said he does not think there will be anything hazardous on the site from the solar farm use now or in the future.

Graham Adams said there is a lot of information of the hazards on the internet and there is also lots of information on the benefits of solar farms. He said last year there was an economic impact analysis done and an update was done. He asked if this could be provided for the Board. Mr. Deaton advised against accepting additional information.

Michael Philbeck said it has been in his privilege to work with this company. He said these are good and reputable people and will do what they say. He reviewed the findings of fact and outlined how this project fits within the findings.

Commissioner Oakes asked about the bond. Mr. Adams said the bond was updated to 125% of the amount, around a \$125,000 bond. This was accepted as a condition for the previous permit.

Kay Brown said she watched the video online from last year and some testimony given was not true.

Being no additional speakers, she declared the public hearing closed.

**CUP #355 – Randall and Tiffany Allen, applicants:**

The applicant is requesting a conditional use permit to place a Class C manufactured home in the R-S (Residential Suburban) district. A Class C manufactured home is a singlewide that meets the Unified Development Ordinance's appearance standards.

Under the UDO, a Class C manufactured home may be placed in the R-S district subject to the issuance of a conditional use permit.

#### **SITE AREA AND DESCRIPTION**

The proposed 0.73-acre site is located on the south side of N.C. 27 and west side of Voyd Brendle Road in North Brook Township. The site is surrounded by property zoned R-S. Land uses in this area include residential, agricultural and commercial. County water is available at this location. This property is part of an area designated by the Lincoln County Land Use Plan as Rural Preservation, suitable for low-density residential uses.

Chair Martin opened the public hearing concerning CUP #355 – Randall and Tiffany Allen, Applicants.

Tiffany Allen said she and her husband have rented for 17 years and would like to buy something of their own.

Brian Kelly, 6485 W. Hwy. 27, asked what conditions have to be met for a conditional use to be approved.

Andrew Bryant said the statement of facts speak to 4 findings of fact

Mr. Kelly questioned if the facts will be black and white. He said he is not against a mobile home, he lives in one. He said he is an appraiser and this will affect their property values. He asked about the parcel being split and the deed of trust.

Mr. Hawkins said this was a parcel that was split by Hwy. 27. It was subdivided years ago in a subdivision plat.

Gary N. Bass, 6459 W. Highway 27, said his complaint is that mobile homes degrades property values and his property is behind this. He said it will lower his property value. He said this is a bad place to put a mobile home.

Ronnie Joe Ritchie said he lives in the area and several real estate people have said the reason they cannot sell a home that has been for sale is because of the mobile homes there.

Being no additional speakers, she declared the public hearing closed.

#### **CUP #356 – Ronnie Dedmon, applicant:**

The applicant is requesting a conditional use permit to establish a self-storage facility in the B-G (General Business) district and in the Eastern Lincoln Development District (ELDD). Under the Unified Development Ordinance, a self-storage facility is a conditional use in the B-G district and in the ELDD. A site plan has been submitted as



part of the application. This property is located in the Catawba River/Lake Norman WS-IV Protected Area. The applicant is also requesting a watershed conditional use permit (see WSCUP #22) to use the high-density option for the proposed self-storage facility.

The proposed 2.0-acre site is located on the north side of Campground Road and the west side of Dusty Ridge Court. The property is adjoined by property zoned B-G and RT (Transitional Residential). Land uses in this area include business, residential, and institutional (church and church campground). This property is part of an area along Campground Road that is designated by the Lincoln County Land Use Plan as neighborhood business, suitable for small-sized, low-intensity, low-traffic business clusters.

Mr. Hawkins said WSCUP #22 is a companion case to this one and all testimony should be considered for both cases.

Commissioner Oakes asked how far this is to Lake Norman. Mr. Dedmon responded that it is 4 miles.

Andrew Bryant gave information concerning Watershed Conditional Permits.

Chair Martin opened the public hearing concerning CUP #356 – Ronnie Dedmon, applicant.

Ronnie Dedmon, applicant, said it's a long way from this property to the lake. He said he has been in business in Lincoln County for 40 years and has always done things right. He said the neighborhood will be proud of this facility and it will be top notch.

James Cresco, 6525 Flyaway Drive, said they do not object to the self storage but do object to the entry way being off Dusty Ridge. There is a bus stop and during the week there are 8 to 10 cars parked along the street. He said they worry about the possibility of all those extra cars there.

Robert Cochrane, 6480 Amoeba Lane, said he owns the property directly behind this site. He voiced concerns with water run off. He said the entrance should be on the main road. He said any run off will damage his home and property.

Ryan Stavaro, 6498 Amoeba Lane, asked who came up with the way water would run off this property.

Mitch Latham said the water is leaving the site on the northeast corner of Dusty Ridge – there is a culvert underneath the road. There is a 3' berm at the back of the site, which will keep the water off. He said the gentleman who spoke before should have less water coming onto his site. He said there may be a plugged up culvert that needs to be addressed. He said there will be keypad access and traffic will not be an issue with storage units since people come in randomly throughout the day.

Leighton Graham, 4395 Dusty Ridge Court, said he has owned his property 13 years. He spoke of the water run-off from the property.

Clayton Comeau, 6165 Fly Away Drive, said the lake is 1 ½ miles from that property, not 4 miles. He spoke concerning the traffic and how it will be backed up.

Randy Hawkins read the list of by-right uses.

Mr. Dedmon said putting the entrance on Campground Road will not change water issues. He said he will sign something so the bus can come into the neighborhood and then turn around.

Being no additional speakers, she declared the public hearing closed.

**WSCUP #22 – Ronnie Dedmon, applicant:**

The applicant is requesting a conditional use permit to allow the use of the highdensity option in the WS-IV Protected Area of the Catawba River/Lake Norman Watershed. The applicant is proposing to develop a 2.0-acre site for a self-storage facility. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. Otherwise, in this watershed district, non-residential developments that require an erosion control plan are limited to a built-upon area of 36 percent. In this case, a built-upon area of approximately 68 percent is proposed.

The proposed 2.0-acre site is located on the north side of Campground Road and the east side of Dusty Ridge Court. The property is adjoined by property zoned B-G and R-T (Transitional Residential). Land uses in this area include business, residential, and institutional (church and church campground). This property is part of an area along Campground Road that is designated by the Lincoln County Land Use Plan as neighborhood business, suitable for small-sized, low-intensity, low-traffic business clusters.

Under the water-supply watershed regulations of the Lincoln County Unified Development Ordinance, the Catawba River/Lake Norman watershed is designated for the use of the high-density option. The option requires the use of stormwater control structures to control and treat the runoff from the first one-inch of rain. The structures must be designed to meet the Best Management Practices (BMP) standards of the N.C. Department of Environment and Natural Resources. In this case, the plans call for a sand filter.

The regulations require the developer to post a bond or other financial security in an amount not less than 1.25 times the cost of constructing the necessary stormwater control structure. In addition, a binding agreement must be signed, requiring the owner to maintain, repair and, if necessary, reconstruct the structure in accordance with an

approved operations and maintenance plan. Once the stormwater control structure have been constructed and inspected, and prior to the release of the financial security, the applicant is required to deposit with the county either cash or a similar approved instrument in an amount equal to 15 percent of the total construction cost or 100 percent of the cost of maintaining the structure over a 20-year period, whichever is greater.

Chair Martin opened the public hearing concerning WSCUP #22 – Ronnie Dedmon, applicant.

Being no speakers, she declared the public hearing closed.

**PCUR #140-2A – Westport Construction Partners, LLC, applicant:**

The applicant is requesting to amend a conditional use district to alter the layout of an area approved for 74 zero-lot-line houses and to allow 49 additional zero-lot-line houses in a portion of an area approved for 52 single-family detached houses, decreasing the number of single-family detached houses by 19.

This request involves a 64-acre planned development that was approved in a parallel conditional use rezoning in 2006. The proposed amendment would allow 123 zero-lot line house and 33 single-family detached houses, a total of 156 homes, a net increase of 30 homes.

In contrast to a single-family detached house, a zero-lot-line house is typically built on a significantly smaller lot with one sides of the house abutting a property line. A total of 16 zero-lot-line houses have been completed or are under construction along Gold Springs Way off Shanklin Lane on the northern side of the development. A total of 21 single-family detached houses have been completed or are under construction on Shanklin Lane and Golf Course Drive South as part of this planned development.

The development was originally approved for 74 condominium units and 52 singlefamily detached houses. Under the provisions of the old Zoning Ordinance, staff approved a change to allow zero-lot-line houses to be built in place of condos. Under the proposed amendment, the layout of the area previously approved for zero-lot-line houses would be changed significantly, particularly on the southern side of the district, near Lake Shore Road South. Homes would be located closer to the district boundary than shown on the original plan.

This site is located in the Catawba River/Lake Norman WS-IV Critical Area. The proposed amended plan shows the area designated for zero-lot-line houses would have an impervious surface area of approximately 33% of the total acreage. If the amended plan is approved, the applicant would need to obtain a conditional use permit to exceed 24% impervious coverage under the high-density option. Engineered plans to control and treat stormwater runoff would need to be submitted and approved through a public

hearing process.

This property is zoned CU PD-R (Conditional Use Planned Development-Residential) and is adjoined by property zoned R-14 (a single-family district with a minimum lot size of 14,000 square feet), R-SF (Residential Single-Family) and (Neighborhood Business). Land uses in this area include residential, recreational (golf course, tennis and swim club), institutional (church) and commercial. Public water and sewer are available in this area. This property is part of an area designated by the Land Use Plan as Suburban Residential, primarily single-family in character with options for a limited amount of town home or patio home development.

Chair Martin opened the public hearing concerning PCUR #140-A-2 – Westport Construction Partners, LLC, applicant.

Tom Daniel said in 2005, he and his father came up with a revitalization plan for the Westport Golf Course and provide for the renovation and reopening. In 2006, they zoned 3 residential districts. The mix of product was a result of feedback from area residents in the area who wanted low maintenance homes to downsize into. The proposed amendment addresses the strong demand for active adult patio homes by reducing the amount of traditional single family homes by 19 and increasing the active adult patio homes by 49 units, resulting in a net increase of 30 homes. The average sales price is \$349,000 and they expect this to increase moving forward. These units will be maintenance free, marketed to over 55, and brick and/or stone. He presented photos of what the homes would look like.

Commissioner Oakes asked why not stay with the current amount of houses already approved. He said based on the traffic study, improvements were supposed to be made at 130 houses.

Mr. Daniel spoke about the homes that were built in the neighborhood that are not up to his standard. He said he will be the general contractor on this project.

Greg Smith, Planning Board member asked what the neighbors would be getting if this was approved. Mr. Daniel said they would be getting nicer homes if this plan is approved.

Commissioner Oakes asked if these homes are age restricted by deed. Mr. Daniel said they are not, but they are marketed toward that. He said the product does not lend itself to a family with kids with no yard, price point, etc.

Ben Benoit, Westport resident, said he is the Catawba River Foundation Lake Keeper for Lincoln County and is concerned about water quantity and water quality. He spoke about runoff from these homes. He asked the Board to carefully consider the request and deny it.

Cynthia Jones said she has lived in Westport area for 23 years. She spoke about buffers behind the zero lot line homes.

Rudy Bauer, 8252 Blades Trail, said he is not against growth, but adding these new homes is transportation problems. He told the Board not to blame DOT. He asked the Board to deny the request.

Patty Korn spoke against the proposed changes. She said the concerns include confusion based on the name Westport and extending Lakeview Drive. She said this will involve taking down trees and changing the view entering the real Westport.

Mr. Deaton advised the Board to stay on task with regards to the

William Rosselli, 2556 Shanklin Lane, spoke for the 5 homeowners on Shanklin Lane against the request. He said the applicant did not successfully answer the findings of fact. He said the residents were not sold their property with zero lot line homes proposed in the back yard and no amount of berm will take that away.

Nino Magarelli said with this proposal he is concerned about his backyard. He asked about the space between his house and the road.

Mike Jones spoke about water run off and sediment. He asked the Board to deny the request.

David Borges spoke about the buffer and said his water is being inundated with water runoff.

Mike Stelzer, 6204 Gold Springs Way, said he loves his patio home there. He asked the Board to give the community a fair shake and resolve the issues.

Jacqueline Watkins, 2588 Shanklin Lane, said the big issue here is that hers is the only house on the market right now. She has reduced her home 3 times for \$30,000 and the same feedback is that it is a lovely home but people don't like the townhomes and other homes around it. She asked the Board to deny the request.

Being no additional speakers, she declared the public hearing closed.

**Performance Guarantee Extensions for Trilogy:** Josh Grant presented information for the following Performance Guarantee Extensions for Trilogy: Parcel B/C Map 4 & 6; - Parcel B/C Map 5 & 7; Parcel A Map 1 - Waterline Utility Infrastructure - Station 32 + 50

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the Extensions.

Mr. Grant presented a Performance Guarantee Application for approval for Trilogy Lake Norman (Carolina Ridge) Parcel G/H Map 3.

**UPON MOTION** by Commissioner Patton, the Board approved the application as presented.

**Public Hearing Fiscal Year 2017 Budget and CIP :** Chair Martin opened the public hearing. Being no one wishing to speak, she declared the public hearing closed.

Commissioner Mitchem asked if any fees were increased in the budget. Mr. Atkins said the Enterprise Funds for Solid Waste were increased from \$86 to \$99 and tipping fees were increased 8%. Mr. Atkins said Planning is looking to decrease some fees as requested.

Commissioner Oakes said the landfills are open 7 days per week now and had to make up money previously lacking in previous years for closing the cells at the landfill.

**UPON MOTION** by Commissioner Oakes, the Board voted 4-1 (Mitchem against) to approve the 2017 Budget as presented.

**LINCOLN COUNTY  
BUDGET ORDINANCE  
FY 2016-17**

**BE IT ORDAINED** by the Board of County Commissioners of Lincoln County, North Carolina:

**Section 1.** The following amounts are hereby appropriated in the General Fund for the operation of the County government and its activities for the fiscal year beginning July 1, 2016 and ending June 30, 2017, in accordance with the chart of accounts heretofore established for Lincoln County.

**GENERAL GOVERNMENT**

Central Services	\$ 802,000
Governing Body	222,011
County Manager	312,918
Human Resources	275,752
Finance	632,914
Information Technology	865,873
Safety & Training	30,978
Tax Department	2,179,584
Legal	260,155

Elections	579,164
Register of Deeds	1,011,380
Buildings and Grounds	2,874,886
Outside Agency	106,248

#### **PUBLIC SAFETY**

Sheriff	9,657,761
Communications	1,381,834
Jail	3,387,352
Jail Commissary	30,000
Emergency Management	263,301
Fire Marshal	342,004
Volunteer Fire Department	194,600
Medical Examiner	33,700
Emergency Medical	6,985,904
Animal Services	971,871
District Court	32,900
Forestry	75,732
Rescue Squads	56,385

#### **TRANSPORTATION**

Airport Authority	60,000
Transportation TLC	1,087,312
Gaston Skills	65,471

#### **ECONOMIC AND PHYSICAL DEVELOPMENT**

Planning and Inspections	1,627,338
Soil Conservation	296,633
Economic Development	1,243,700
Cooperative Extension	292,473
Outside Agency	44,000

#### **HUMAN SERVICES**

Health Department	4,417,667
Mental Health	384,589
Social Services	13,018,037
Veterans Services	129,690
Senior Services	515,251
Juvenile Crime Prevention	176,128
Gaston Family Health	30,000

**CULTURAL AND RECREATION**

Library	1,388,904
Recreation	760,356
Historic Properties	2,480
Outside Agency	170,038

**EDUCATION**

Lincoln Center Gaston College	200,000
Schools Current Expense	17,818,484
Schools Capital Outlay	1,729,091

**DEBT SERVICES**

General County	1,179,489
School System	11,146,826

**TRANSFER TO CAPITAL PROJECT FUND** 4,283,050

**TRANSFER TO CAPITAL RESERVE FUND** -

**CONTINGENCY** -

**TOTAL GENERAL FUND** \$ 95,634,214

**Section 2.** It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

**AD VALOREM TAXES**

Current Year's Property Taxes	\$ 50,480,000
Prior Year's Property Taxes	1,030,000
Medicaid Hold Harmless	310,000
Local Option 1 cent Sales Tax	6,103,740
Local Option 1st 1/2 cent Sales Tax	4,520,500
Local Option 2nd 1/2 cent Sales Tax	3,450,750
524 Redistribution Sales Tax	1,200,000
Utilities Franchise Tax	230,000



	<b>\$ 67,324,990</b>
<b>FEDERAL REVENUES</b>	9,758,359
<b>STATE REVENUES</b>	2,502,972
<b>INTERGOVERNMENTAL REVENUES</b>	411,300
<b>OTHER TAXES AND LICENSES</b>	737,000
<b>SALES AND SERVICES</b>	7,744,979
<b>INVESTMENT EARNINGS</b>	75,000
<b>MISCELLANEOUS</b>	979,226
<b>OTHER FINANCING SOURCES</b>	600,000
<b>FUND BALANCE APPROPRIATED</b>	<u>5,500,388</u>
<b>TOTAL REVENUES</b>	<u><b>\$ 95,634,214</b></u>

Thirty percent (30%) of the proceeds of the first local half-cent sales and use tax (article 40) and sixty percent (60%) of the proceeds of the second local half-cent sales and use tax (article 42) are hereby declared to be included in the appropriation for school capital projects and/or debt service. Any receipts in excess of capital projects and debt service shall be accumulated in the Capital Reserve Fund for Schools until such time as the funds are appropriated for specific projects or debt service.

The remaining proceeds from the two half cent sales and use taxes are hereby appropriated for other general county needs which may include, but not be limited to, debt service, capital projects, capital outlay and operating expenses.

**Section 3.** The following amounts are hereby appropriated as continuing multi-year projects in the School Capital Projects Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Improvements	250,000
<b>Total School Capital Projects Improvement Project Fund Expenditures</b>	<u><b>\$ 250,000</b></u>

It is estimated that the following revenues will be available in the School Capital Projects Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Interest on Investments	-
Fund Balance Appropriated	250,000
<b>Total School Capital Projects Improvement Project Fund Revenues</b>	<b>\$ 250,000</b>

**Section 4.** The following amounts are hereby appropriated or reserved in the School Capital Reserve Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Transfer to General Fund (Debt Service)	801,000
<b>Total School Capital Reserve Fund Appropriations/Reserve</b>	<b>\$ 801,000</b>

It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Interest on Investment	1,000
Lottery Proceeds	800,000
Fund Balance Appropriated	-
<b>Total School Capital Reserve Fund Revenues</b>	<b>\$ 801,000</b>

**Section 5.** The following amounts are hereby appropriated in the Law Enforcement Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Operating Expense	15,025
<b>Total</b>	<b>\$ 15,025</b>

It is estimated that the following revenues will be available in the Law Enforcement Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Controlled Substance Excise Tax	15,000
Interest on Investment	25
Fund Balance Appropriated	-

<b>Total</b>	<b>\$ 15,025</b>
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**Section 6.** The following amounts are hereby appropriated in the Federal Law Enforcement Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Operating Expense	10,050
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<b>Total</b>	<b>\$ 10,050</b>
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It is estimated that the following revenues will be available in the Federal Law Enforcement Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Controlled Substance Tax	10,000
Investment Earnings	50
Federal Forfeited Property	-

<b>Total</b>	<b>\$ 10,050</b>
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**Section 7.** The following amounts are hereby appropriated in the Emergency Telephone Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Operating Expenses	224,500
Capital Outlay	-

<b>Total Emergency Telephone Fund</b>	<b>\$ 224,500</b>
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It is estimated that the following revenues will be available in the Emergency Telephone Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Phone Service Charges	224,500
Interest on Investments	-

<b>Total Emergency Telephone Fund</b>	<b>\$ 224,500</b>
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**Section 8.** The following amounts are hereby appropriated in the Solid Waste Enterprise Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Operating Expenses	3,346,365
Capital Construction	3,615,946
Debt Service	326,644

**Total Solid Waste Enterprise Fund  
Appropriation**

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**\$ 7,288,955**

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It is estimated that the following revenues will be available in the Solid Waste Enterprise Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

<b>STATE SHARED TAXES</b>	146,700
<b>SALES AND SERVICES</b>	4,131,255
<b>INTEREST REVENUE</b>	9,000
<b>MISCELLANEOUS REVENUES</b>	2,000
<b>OTHER FINANCING SOURCES</b>	3,000,000
<b>Total Solid Waste Enterprise Fund Revenues</b>	<hr/> <b>\$ 7,288,955</b> <hr/>

**Section 9.** The following amounts are hereby appropriated in the Water and Sewer Enterprise Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Operating Expenses	5,690,466
Debt Service	1,742,236
Capital Outlay	220,000
Transfer to Other Funds	2,423,805
<b>Total Water and Sewer Enterprise Fund Appropriation</b>	<hr/> <b>\$ 10,076,507</b> <hr/>

It is estimated that the following revenues will be available in the Water and Sewer Enterprise Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

<b>SALES AND SERVICES</b>	10,069,507
<b>INTEREST REVENUE</b>	7,000
<b>MISCELLANEOUS REVENUE</b>	-
<b>FUND BALANCE APPROPRIATED</b>	-
<b>Total Water and Sewer Enterprise Fund Revenues</b>	<hr/> <b>\$ 10,076,507</b> <hr/>

**Section 10.** The following amounts are hereby appropriated as continuing multi-year projects in the General County Capital Improvement Project Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Facility Improvement	4,265,000
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**Total General County Capital Improvement Project**

<b>Fund Appropriations</b>	<b>\$ 4,265,000</b>
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It is estimated that the following revenues will be available in the General County Capital Improvement Project Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Transfer from General Fund	4,265,000
Grants	-
Debt Proceeds	-
Sale of Fixed Assets	-
Interest on Investments	-
Other Revenues	-

**Total General County Capital Improvement Project**

<b>Fund Revenues</b>	<b>\$ 4,265,000</b>
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**Section 11.** The following amounts are hereby appropriated as continuing multi-year projects in the Water and Sewer Capital Improvement Projects Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Water System Improvements	1,556,791
Sewer System Improvements	-

**Total Water and Sewer Capital Improvement Project**

<b>Fund Appropriations</b>	<b>\$ 1,556,791</b>
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It is estimated that the following revenues will be available in the Water and Sewer Capital Improvement Projects Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Transfer from Water Fund	1,556,791
Proceeds of Financing	-

**Total Water and Sewer Capital Improvement Project  
Fund Revenues**

**\$ 1,556,791**

**Section 12.** The following amounts are hereby appropriated in the Health Insurance Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Health and Consultant Fees	1,020,000
Health Insurance Claims	5,347,000
Flex Account Expenses	150,000
Reserve	734,795

**Total Health Insurance Fund Appropriations**

**\$ 7,251,795**

It is estimated that the following revenues will be available in the Health Insurance Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Health Premiums Employer	5,966,000
Health Premiums Employee	1,127,795
Flex Account	150,000
Investment Income	8,000

**Total Health Insurance Fund Revenues**

**\$ 7,251,795**

**Section 13.** The following amounts are hereby appropriated in the Workers' Compensation Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Administrative Fees	80,000
Insurance Consultant	4,000
Workers' Compensation Claims	341,250
Reserve	125,949

**Total Workers' Compensation Fund  
Appropriations**

**\$ 551,199**

It is estimated that the following revenues will be available in the Workers' Compensation Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017:

Workers' Compensation Premiums	550,699
Interest Income	500

**Total Workers' Compensation Fund Revenues**

**\$ 551,199**

**Section 14.** There is hereby levied a unified tax at the rate of 61.1 cents per one hundred dollars (\$100) valuation of property listed for taxes as of January 1, 2016, for the purpose of raising the revenue listed as "Current Year's Property Taxes" in the General Fund in Section 2 of this Ordinance.

This rate of tax is based on an estimated total valuation of property for the purpose of taxation of \$7,725,445,810 and an estimated collection rate of 97.7 percent. The estimated rate of collection is based on the fiscal 2015-16 collection rate of 97.73 percent.

**Section 15.** There is hereby levied a tax at the rate shown below, per one hundred dollars (\$100) valuation of property listed for taxes as of January 1, 2016; located within the eleven (11) special fire districts for raising of revenue for said special fire districts. Estimated totals of valuation of property for the eleven special fire districts for the purpose of taxation are as follows:

<b>Fire District</b>	<b>Assessed Value</b>	<b>Rate</b>	<b>2016-17 Tax Revenue</b>	<b>2016-17 Tax Appropriations</b>
Alexis	305,200,000	0.1165	347,576	347,576
Boger City	642,200,000	0.0999	625,904	625,904
Crouse	169,800,000	0.0640	106,614	106,614
Denver	1,828,600,000	0.1125	1,993,619	1,993,619
East Lincoln	2,191,700,000	0.0860	1,814,801	1,814,801
Howard's Creek	242,600,000	0.1223	285,881	285,881
North 321	740,700,000	0.0400	288,090	288,090
North Brook	349,100,000	0.1000	342,525	342,525
Pumpkin Center	481,200,000	0.0970	456,870	456,870
South Fork	270,900,000	0.1250	330,170	330,170
Union	259,100,000	0.0900	227,960	227,960

There is appropriated to the special fire districts from the proceeds of this tax the amounts shown under the appropriation column, for use by the special fire districts in such manner and for such expenditures as is permitted by law from the proceeds of this tax. In the event the actual net proceeds from the tax levies exceed or fall short of the appropriated amounts, the actual net proceeds from the tax shall constitute the appropriation from the tax levy.

Lincoln County will continue to serve as collection agent for the City of Lincoln for the

collection of property taxes, as long as this is mutually agreeable between Lincolnton and Lincoln County. Lincoln County shall receive a three percent (3%) collection fee (1-1/2% fee for motor vehicles) for this service, plus unusual expenses as agreed by both parties.

On June 29, 2002, the Board of County Commissioners adopted "Ordinance  
**Section 16.** for

Availability and Use Fees for Solid Waste Disposal Facilities Lincoln County, North Carolina." As stated in the ordinance the fees for availability shall remain in effect until amended. The Solid Waste Availability Fee for fiscal year 2016 - 17 is \$99 per unit rate.

**Section 17.** On August 23, 1993, the Board of County Commissioners adopted "Resolution Concerning Use of Room Occupancy and Tourism Tax" which became effective October 1, 1993. This resolution levies a 3% room occupancy tax on the rental of a room, lodging, or accommodation furnished by a hotel, motel, tourist camp, or similar place within the County. The purpose of this tax is to provide a source of revenue to promote travel and tourism within Lincoln County. Included in this budget is estimated revenue of \$80,000 to be derived from this tax. Also included in this budget are allowable expenditures which may be funded from this revenue source: Chamber of Commerce \$17,500, to advertise, print and distribute information on Lincoln County; Downtown Development Association \$7,500; Historical Properties \$2,480; Historical Association \$35,000; Cultural Development Center \$57,270; for a total of \$119,750.

**Section 18.** This Budget Ordinance, effective July 1, 2016 authorizes the mileage reimbursement rate as the standard mileage rate set by the Internal Revenue Service, which may be revised during the fiscal year. Per Diem without receipts remains the same at \$6.00 for breakfast; \$11.00 for lunch; and \$18.00 for dinner.

**Section 19.** The funds that are used in this Budget Ordinance to fund certain elements in the Solid Waste and Public Works operations are non-property tax funds.

**Section 20.** The County Manager, or designee, is hereby authorized to transfer appropriations within a fund as contained herein under the following conditions:

- a. He may transfer amounts among objects of expenditure within a department.
- b. He may transfer amounts up to \$50,000 between departments of the same fund.
- c. He may not transfer any amounts between funds nor from the contingency or from any capital reserve appropriations.

**Section 21.** The County Manager, or designee, is hereby authorized to execute contractual documents under the following conditions:

- a. He may execute contracts for construction, repair projects or design services requiring the estimated expenditure of less than \$50,000.



- b. He may execute contracts for: (1) purchases of apparatus, supplies and materials, or equipment which are within budgeted appropriations, (2) leases of personal property for a duration of one year or less and within budgeted appropriations, and (3) services which are within budgeted appropriations.
- c. He may execute grant agreements to or from public and non-profit organizations, which are within budgeted appropriations, unless a grantor organization requires execution by the Board of Commissioners.
- d. He may execute contracts, as the lessor or lessee of real property, which are of one-year duration or less, if funds therefore are within budgeted appropriations.

**Section 22.** It is the intent of the Board of Commissioners that all departments and divisions, including those under the control of the Sheriff, are limited to the specific number of each position classification agreed upon in the budgeting process, and that no changes in those numbers can be made without the express approval of the Board of Commissioners after a recommendation from the County Manager. The list of the specific numbers of each position classification for the Sheriff's Office is approved hereby as set out below:

<u>Position Title</u>	<u>Number of Full Time Positions</u>
Sheriff	1
Major	1
Captain	2
1st Sergeant	6
Sergeant	13
Court Security Officer	6
Sr. Deputy Sheriff	10
Deputy Sheriff	48
Investigator	21
Lieutenant	7
Financial Manager	1
DCI Specialist	5
Records/Permit Specialist	1
Administrative Assistant	2
Systems Analyst Programmer	1
Logistics Specialist	1
<b>TOTAL FOR SHERIFF</b>	<b>126</b>

**Number of**

<u>Position Title</u>	<u>Full Time Positions</u>
Admin. Det. Lieutenant	1
Asst. Det. Admin.	1
Administrative Secretary	1
Classification Officer	1
Corporal Detention	4
Deputy Sheriff - Transport	1
Detention Officer	26
Sergeant - Detention	4
Sr. Detention Officer	5
Pre-Trial Release	0
<b>Total for DETENTION</b>	<b>44</b>

**Section 23.** The annual appropriations for all divisions of the Sheriff's Office shall be allocated by the Finance Department on a quarterly basis, with each quarterly allocation being equal to twenty-five (25%) percent of the annual appropriation in each line item. The County Manager is hereby authorized to exceed such a quarterly appropriation in the event an annual contract requires a pre-payment or earlier payment schedule than quarterly. The intent of this section is to authorize expenditures equal to no more than 25% of the annual appropriations during each quarter of the fiscal year.

**Section 24.** Copies of this Budget Ordinance shall be furnished to the County Manager, Clerk to the Board of Commissioners, Finance Director and the Tax Administrator for direction in carrying out their duties.

Adopted this 6th day of June, 2016.

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Cecelia A. Martin, Chair  
Lincoln County  
Board of Commissioners

**ATTEST:**

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Amy S. Atkins  
Clerk to the Board

**Public Comments:** Chair Martin opened Public Comments.

Rudy Bauer, 8252 Blades Trail, Denver, spoke concerning traffic in Denver and speeding on Blades Trail. He asked the Board to pay \$125 for speed limit signs

Being no additional speakers, Chair Martin closed Public Comments.

**Purchase of Polling Booths – Bradley Putnam:**

Bradley Putnam said Lincoln County Board of Elections voted to purchase new polling booths due to the condition the current inventory is in. The Board of Elections voted on February 9, 2016 to accept the quote from Printelect at a cost of \$32,000.00.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the purchase of polling booths from Printelect at a cost of \$32,000.00.

**Resolution (1) Authorizing Pursuing an Installment Financing, (2) Making Certain Findings and Appointments and Requesting Approval of the Local Government Commission and (3) Calling a Public Hearing Relating to the Installment Financing:**

Deanna Rios presented the following:

The Board will hold a public hearing regarding a proposed installment financing with a bank to provide funds for the projects listed below. The Board will also adopt a preliminary findings resolution regarding that financing and select the winning bank bidder.

Citizen's Center / Courthouse Exterior Renovations  
New Government Center Complex  
New Landfill Solid Waste Cell  
Water Treatment Plant Expansion  
Medical Arts Roof

Davenport sent out an RFP and it is recommended to go with Carolina Bank with a bank qualified rate of 2.33% for 20 years, although the landfill cell is only for 10 years.

Commissioner Oakes introduced the following Resolution which was read by title, and moved it be adopted. Commissioner Beam seconded the motion, which was unanimously approved

**RESOLUTION (1) AUTHORIZING PURSUING AN INSTALLMENT FINANCING, (2) MAKING CERTAIN FINDINGS AND APPOINTMENTS AND REQUESTING APPROVAL OF THE LOCAL GOVERNMENT COMMISSION AND (3) CALLING A PUBLIC HEARING RELATING TO THE INSTALLMENT FINANCING**

**WHEREAS**, Davenport & Company LLC (“Davenport”), on behalf of the County, has distributed a Request for Proposals to secure a bank commitment for the installment financing of certain capital projects for the County, and the County wants to accept the proposal of Carolina Bank; and

**WHEREAS**, in order to secure required approval of the financing by the Local Government Commission of North Carolina, the County must make certain findings and must hold a public hearing; and

**WHEREAS**, it is necessary to conduct a public hearing relating to the proposed installment financing;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the County as follows:

1. The Board hereby finds and determines in connection with the proposed installment financing contract that (a) such proposed contract is necessary or expedient to the County, (b) such proposed contract, under current circumstances, is preferable to a general obligation bond issue of the County for the same purpose, (c) the sums estimated to fall due under such proposed contract are adequate and not excessive for their proposed purpose, (d) the County’s debt management procedures and policies are good and its debt will continue to be

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managed in strict compliance with the law, (e) no increase in taxes will be necessary due to the proposed contract and (f) the County is not in default regarding any of its debt service obligations.

2. The Board hereby requests the Local Government Commission of North Carolina to approve such proposed contract under Article 8 of Chapter 159 of the General Statutes of North Carolina. The Board appoints Davenport as financial advisor and Robinson Bradshaw & Hinson P.A. as special counsel for the transaction.
3. The Board hereby accepts the proposal of Carolina Bank and authorizes County staff to work and negotiate with that organization regarding that proposed contract.
4. The Board hereby calls for a public hearing relating to the proposed contract to be held at its meeting on June 20, 2016.
5. This Resolution shall become effective immediately upon its adoption.

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**Friends of the Library Funding Request:** Rebecca Powell presented a request on behalf of Friends of the Library. The Steering Committee would like to ask the Commissioners to fund the money for them to obtain their 501(c)3.

Commissioner Mitchem volunteered to donate the \$900 out of his pocket to get the Friends of the Library formed.

**Approval of Modification of Lease Agreement between Lincoln County and Gaston Family Health Services for land for construction of new Helping Hands Facility:**

Robert Spencer said they have been funded \$1 million for the construction of the Helping Hands Facility.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the Modification of Lease Agreement between Lincoln County and Gaston Family Health Services for land for construction of new Helping Hands Facility. The lease documents are hereby incorporated and attached to this document for reference.

**Approval to Accept \$19,350 Library Services and Technology (LSTA) EZ Planning Grant, 2016-17** - Jennifer Sackett presented the following:

The Lincoln County Public Library has experienced major changes and significant growth in its services since the dissolution of the regional library system in 2012. Library facilities are quickly reaching their capacity as the population in Lincoln County continues to increase. The library has been awarded a planning grant to facilitate a conversation about the future of library services and the spaces needed to adequately accommodate the community's vision for the library. The library plans to conduct community forums, targeted focus groups, and one-on-one meetings with key stakeholders throughout the county. Working with a consultant, the library will design a facility plan that will help guide the development of future services and potential building projects. As part of the grant agreement, the library will use Kimberly Bolan and Associates, a library consulting company based outside Indianapolis (IN). Over the past 12 years, Kim and Rob have been involved in numerous library building programs, space design projects, strategic plans, and other consulting work.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to accept the \$19,350 Library Services and Technology Act (LSTA) EZ Planning Grant for 2016-17.

**Approval to Accept \$50,000 Library Services and Technology Act (LSTA) EZ Literacy and Lifelong Learning Grant , 2016-2017** - Jennifer Sackett presented the following:

As part of its strategic plan, the Lincoln County Public Library is committed to building an early literacy program which not only models but teaches caregivers how to help develop pre-reading skills in children. Using the foundation provided by Every Child Ready to Read, the Lincoln County Public Library will implement new and enhanced early literacy programs with a more comprehensive philosophical approach that trains

and engages caregivers in the learning process. As part of this initiative, the Library is expanding its preschool programs to include Literacy-Enhanced Storytimes, literacy training for caregivers, technology in literacy programming, and outreach programs that increase awareness of early literacy and better connect with the community. The library will partner with A Place to Grow to implement sensory storytimes designed for special needs children and their families. StoryWalks® will be installed at local parks to promote literacy and library resources in a non-traditional environment. The goal of each of these components is to expand access to literacy education and ensure children in Lincoln County enter school ready to read, write, and listen. Because the Lincoln County Public Library is partnering with A Place to Grow on this project, the grant match requirement has been reduced from 25% (\$12,500) to 10% (\$5,000). Funding Requirement – The \$5,000 required match for this grant will come from funds remaining from the dissolution of the regional library.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to accept the \$50,000 Library Services and Technology Act (LSTA) EZ Literacy and Lifelong Learning Grant 2016-17.

**Other Business:**

**Closed Session** – **UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to enter Closed Session - Pursuant to NCGS § 143-318.11. Closed sessions (a) (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award. (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. (Aaron Upton case) and (a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations.

Chair Martin announced that no action was taken in Closed Session.

**Adjourn:** **UPON MOTION** by Commissioner Patton, the Board voted unanimously to recess until Friday, May 6 at 9:00 AM in the Commissioners Room for a meeting with the Judges.

## **LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (the “Lease”) is entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **LINCOLN COUNTY**, a body corporate and politic (“Landlord”) and **GASTON FAMILY HEALTH SERVICES, INC.**, doing business as “Helping Hands” (“Tenant”). The **CHARLOTTE-MECKLENBURG HOSPITAL AUTHORITY** (the “Authority”), a body corporate and politic, also has executed this Agreement solely for the purpose of waiving certain rights and restrictions for which it is the beneficiary.

### **RECITALS:**

1. The Landlord is the owner of a tract or parcel of land more specifically described in Exhibit “A,” attached hereto (the “Property”).
2. Tenant is a non-profit corporation whose purpose is to provide basic medical services to underserved patients in need of care.
3. Tenant desires to lease the Premises from the Landlord, and to construct upon the Premises a building (the “Building”) to provide its services, as more specifically described herein.
4. The Landlord desires to allow Tenant to lease the Premises from the Landlord, at a de minimis rent, on an annual basis, subject to the terms and conditions herein.
5. Pursuant to restrictions encumbering the Premises (the “Restrictions”), so long as the Authority operates a hospital within the county of Lincoln, North Carolina, the Premises shall not be used for the operation of a hospital, medical clinic, medical office building, or any other use related to medical care.
6. The Authority has agreed to a limited waiver of the Restrictions as set forth in Article XI below.

## **AGREEMENT**

In consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **ARTICLE I. DEFINITIONS**

As used in this Lease, the following words and terms shall have the respective definitions ascribed thereby:

"Building Plans" shall mean the plans and specifications prepared by or at the direction of the Landlord and approved in writing by Tenant pursuant to Section 2.02 for construction on the Property of the Building containing approximately 5,860 square feet. The Building shall be a free standing building as the same is shown in Exhibit "B."

"Effective Date" shall mean July 1, 2016.

"Federally Qualified Health Center (FQHC) Services" means health and medical services extended to the under-served of the community through the operation of the clinical site in accordance with provisions and requirements of section 330 of the Public Health Act of 1964, and interpretations and guidelines, thereof, set forth by the Health Resources and Services Administration (HRSA), and the Federal Bureau of Primary Health Care (BPHC).

"Improvements" shall mean the Building referred to above, all parking lots and driveways (paved and striped) on the Property, exterior lighting and landscaping and all utility lines necessary to provide utility service to the Building.

"Plans and Specifications" shall mean the finished site plan and building plans for the Premises.

"Premises" shall mean, the Property together with the Building to be constructed thereon.

## **ARTICLE II. CONSTRUCTION OF IMPROVEMENTS; DELIVERY OF PREMISES; OCCUPANCY**

### **Section 2.01** Approval of Lease a Condition Precedent.

This Lease is specifically conditioned upon the approval by the Landlord's Board of Commissioners.

### **Section 2.02** Approval of Plans and Specifications.

Not later than the applicable date stated in Section 2.12 (such dates being collectively referred to as the "Project Deadlines"), Tenant shall submit to Landlord, for approval, Plans and Specifications for the Improvements to the Property prepared by a registered architect or professional engineer. Landlord shall provide Tenant with either (a) written approval of the Plans and Specifications, or (b) written suggestions for revisions to the Plans and Specifications, within twenty-one (21) days of the date of the original submission of the Plans and Specifications by Tenant to Landlord. If the parties cannot timely agree on the Plans and Specifications for the Improvements to the Property, then Landlord may terminate this Lease in writing by providing Tenant five (5) business days' notice thereof.

### **Section 2.03** Current Survey.



No later than forty five (45) days after the Effective Date, Tenant shall provide to Landlord a current boundary survey of the Property of which the Premises shall be a part, prepared by a licensed North Carolina land surveyor.

**Section 2.04** Amendments to Agreement, Plans or Specifications.

All material amendments and/or changes to the Lease, the final Plans or the Specifications must be expressly agreed upon in writing by Tenant and Landlord in advance of their incorporation.

**Section 2.05** Construction Permits.

Not later than the applicable date stated in the Project Deadlines, Landlord, at Landlord's sole cost and expense, shall apply to the City of Lincolnton Building Inspection Department and any other applicable governmental agency for the issuance of all necessary permits for the construction of the Improvements.

**Section 2.06** Hiring of Contractor and Architect.

Landlord shall hire a North Carolina licensed general contractor (the "Contractor") and a North Carolina licensed architect (the "Architect") for the Plans and Specifications and construction of the Improvements. The selection of the Contractor and Architect shall be subject to the mutual approval of Landlord and Tenant. Tenant shall be responsible for the supervision and control over the construction of the Improvements pursuant to the terms and conditions of this Lease. The form, content and provider of all warranties to be issued with regard to various components of the Improvements shall be subject to the mutual approval of Landlord and Tenant.

**Section 2.07** Construction of Improvements.

The Improvements shall be substantially completed by Tenant by the applicable date stated in the Project Deadlines (the "Completion Date").

The Improvements shall be considered "Substantially Completed" upon the date on which the governmental authority having jurisdiction to do so shall have issued a certificate of occupancy or similar certificate of completion and such authority shall permit Tenant to occupy the Premises for the intended purpose.

**Section 2.08** Inspection by Landlord; "Punch List;" Resolution of Disputes.

Landlord shall be entitled to inspect construction of the Improvements as construction progresses, at all reasonable times, and Tenant shall permit one or more duly authorized representatives designated by Landlord to have reasonable access during the construction period as reasonably necessary to provide Landlord with the independent opportunity to confirm the Improvements are being constructed in accordance with the approved Plans and Specifications. Upon receipt of notice of Substantial Completion from Tenant, Landlord shall have the right to conduct a final inspection of the Improvements and prepare a punch list setting forth any work which is not in accordance with the Plans and Specifications (the "Punch List"), and

Tenant within thirty (30) days of the receipt of the punch list, shall complete and/or correct all items described therein to the reasonable satisfaction of Landlord. The existence of any Punch List items shall not enable Landlord to delay the Occupancy Date. If such corrective activity reasonably requires more than thirty (30) days to complete, Tenant shall pursue same with due diligence to completion. The Tenant's architect shall mediate any disputes as to incomplete or defective work which cannot be resolved by the parties. If such mediation does not result in agreement between the parties, all remaining issues shall be submitted to arbitration in accordance with rules and procedures of the American Arbitration Association Construction Industry Rules. Each party shall bear its own expenses (including attorneys' fees) in connection with such arbitration. Any award as a result of arbitration may be entered in any court having competent jurisdiction.

**Section 2.09** Occupancy Date.

Occupancy Date. Tenant shall occupy the Premises not later than the date stated in the Project Deadlines.

**Section 2.10** Entry by Tenant Prior to Occupancy Date.

Prior to the Premises being Substantially Completed, Tenant, and Tenant's agents and contractors, shall have the privilege of entering upon the Premises at Tenant's sole risk for the purpose of taking measurements, making tenant improvements, stocking inventory and for any other purpose expressly permitted by Landlord, upon the written permission of Landlord, said permission to not be unreasonably withheld. In connection with entry into the Premises, Tenant agrees to fully indemnify and hold Landlord harmless against all loss, costs, claims, expenses or damages whatsoever arising from, out of or connected with Tenant's early occupancy to provide liability insurance and fire and extended coverage insurance on Tenant's inventory and other personal property with an insurer meeting the qualifications contained herein.

**Section 2.11** Progress Meetings.

On a date acceptable to the parties once each month during the construction period, a meeting will be held so that Tenant may give Landlord status reports as to the progress of construction of the Improvements and identify and solve any problems. In attendance at the meeting will be the Landlord's designated representative, the Contractor, and the Tenant's designated representative.

**Section 2.12** Project Deadlines.

It is understood and agreed that this Lease, all obligations under this Lease, and the timing thereof are of critical importance to Landlord. To this end, Tenant agrees to use commercially reasonable efforts to achieve the following results by the critical dates stated below (each a "Project Deadline"):

- (a) Approval of the architectural plans and specifications by Landlord and Tenant (75 days from the Effective Date);

- (b) Approval by the City of Lincolnton Planning Department (120 days from the Effective Date);
- (c) Tenant secures all land development permits, construction permits, and any site plan approval and/or permits required by North Carolina Department of Transportation for curb cuts (150 days from the Effective Date);
- (d) Tenant provides construction schedule to Landlord (120 days from the Effective Date).
- (e) Tenant commences construction of the Building (150 days from the Effective Date);
- (f) Tenant achieves substantial completion of the Building (300 days from the Effective Date); and
- (g) Tenant secures a certificate of occupancy for the Building (320 days from the Effective Date).

In the event Tenant has not provided Landlord with satisfactory evidence that it has timely met each Project Deadline as stated above, Landlord may demand compliance with the Project Deadline by written notice to Tenant (each a "Compliance Demand"). In the event Tenant has not met the Project Deadline within ten (10) days of the Compliance Demand, Landlord may terminate this Lease upon written notice to Tenant not later than thirty (30) days after the date of the Compliance Demand.

### **ARTICLE III. TERM OF LEASE**

#### **Section 3.01** Term.

The term of this Lease (the "Term") shall be defined as the Initial Term (as that term is defined below) plus all, if any, Renewal Periods (as that term is defined below) thereafter.

#### **Section 3.02** Initial Term.

The Initial term of this Lease shall commence on the first day of the calendar month next succeeding the Occupancy Date (the "Commencement Date") and shall end at 12:00 o'clock midnight on the date of expiration twenty (20) years from the Commencement Date (the "Initial Term"); provided, however, that the terms, conditions, obligations and covenants of this Lease shall commence on the date of this Lease and shall continue throughout the Term of this Lease.

#### **Section 3.02** Automatic Renewals.

Upon the expiration of the Initial Term, the Term shall automatically renew itself from year to year for one-year renewal periods (each, a "Renewal Period").

#### **Section 3.04 Termination.**

The Term shall continue in perpetuity unless or until either party notifies the other in writing of its intent to terminate this Lease at least 90 days before the expiration of the Initial Term or the current Renewal Period at the time of the desired termination.

Termination of the Lease shall be effective as of the conclusion of the Initial Term or Renewal Period in which timely notice is given by one party to the other, as provided above.

### **ARTICLE IV. RENTAL**

#### **Section 4.01 General Provisions.**

(a) **Obligation to Pay Rent.** Tenant shall pay to Landlord for the use and occupancy of the Premises during the term of this Lease rental as provided in this Article IV.

(b) **Directions for Payment.** All rental payments required under the Lease shall be payable to Landlord at the Notice Address provided herein, or at such other address as Landlord may advise Tenant from time to time by notice. All rent shall be due on the first (1<sup>st</sup>) day of each month and considered past due if not paid by the tenth (10<sup>th</sup>) day of the month. In the event the Commencement Date of the Term of the Lease is a date other than the first day of a calendar month, the Tenant shall pay the Landlord on the Commencement Date of the Term a pro-rated month's rent.

#### **Section 4.02 Rental during Term.**

During the Term of this Lease, Tenant shall pay to the Landlord as rent for the Premises the sum of \$12.00 per year, annualized into monthly payments of \$1.00 each. The Tenant may prepay the rent, in its sole discretion.

#### **Section 4.03 Late Payment Fee.**

If Tenant does not pay a monthly payment of the Annual Rental on or before the tenth day of the month in which said monthly payment is due, the rental for that particular month shall be increased by an amount equal to five percent (5%) of the monthly rental for that month.

### **ARTICLE V.**

#### **CONDITION AND DELIVERY OF PREMISES**

#### **Section 5.01 Landlord Representations.**

Landlord represents that:

(a) Landlord has good, valid, insurable, and marketable title to the Property;

(b) To Landlord's best knowledge, there is no litigation, action, suit, other legal proceeding or governmental investigation pending or threatened against the Property, and Landlord has no knowledge or reason to know of any ground for any such action;

(c) The Property is exempt from ad valorem taxes; and

(d) To the best of its knowledge, without investigation, (i) no Hazardous Material is present in, on, under or about the Property in violation of applicable Environmental Laws; (ii) without limiting the foregoing, the Property does not contain any underground storage tanks; (iii) the Property is in full compliance with all Environmental Laws; and (iv) the Property has never been the subject of an environmental audit or assessment, or remedial action for an environmental problem.

**Section 5.02** Delivery of Property.

Subject to the representations set forth in Section 5.01, Landlord shall deliver possession of the Property to Tenant on the Effective Date in "AS IS" condition. Tenant acknowledges and agrees that, except as otherwise set forth in this Lease, Landlord makes no representations or warranties as to the condition of the Property.

**ARTICLE VI.**  
**USE, OCCUPANCY AND MAINTENANCE OF THE PREMISES**

**Section 6.01** Use and Operation of Premises.

Tenant, at its sole cost and expense, shall use and operate the Premises pursuant to the terms and conditions, and for those specified uses only, as provided herein below, and hereby covenants and agrees that in connection with its use and operation of the Premises:

(i) It will provide health and medical services in accordance with its requirements as a Federally Qualified Health Center (FQHC) site;

(ii) It will provide FQHC Services in full compliance with state and federal law without discrimination, regardless of the cost of providing such services and regardless of the person's ability to pay;

(iii) It will neither enact, nor will it cause to be enacted, financial admission policies that have the effect of denying essential medical services or treatment solely because of a patient's immediate inability to pay for the services or treatment;

(iv) It will ensure, or will cause to be ensured, that admission to and services of FQHC Services are available to the beneficiaries of governmental

reimbursement programs (Medicaid/Medicare) without discrimination or preference because they are beneficiaries of those programs;

(v) It will provide, or cause to be provided, to Landlord periodic reports regarding its FQHC Services in a mutually acceptable format.

**Section 6.02 Taxes, Assessments, Dues, and Other Charges.** Commencing on the Effective Date, Tenant shall pay all real and personal property taxes, assessments, dues, and other charges levied or assessed against the Premises, if any, including all improvements and personalty located thereon. Landlord shall deliver to Tenant, within thirty (30) days after its receipt of any bills, invoices, or notices related thereto, notice of the amount of any real estate taxes, dues, assessments, or other charges pertaining to the Premises. Any such taxes, assessments, dues, or other charges levied for the year in which the Effective Date occurs, and for the year in which the Lease Term ends, shall be apportioned between Landlord and Tenant on a daily basis.

**Section 6.03 Tenant's Covenants to Repair and Maintain.**

Tenant shall, at Tenant's own expense, keep and maintain in good order and repair during the Term of this Lease all parts of the Premises. Tenant will, upon termination or expiration of this Lease, deliver the Premises to Landlord in good and broom swept condition.

**Section 6.04 Landlord's Right to Repair and Replace.**

Any and all repairs and replacements during the Term of this Lease shall be Tenant's sole duty and responsibility as set forth in Section 6.03, and Landlord shall have no duty of repair or replacement. Notwithstanding the foregoing, however, in the event the Tenant fails to maintain the Premises pursuant to its obligations contained herein, Landlord may, at its option, either (i) make any repairs or replacements it deems necessary, in its sole discretion, and add the costs of said repairs or replacements to the Tenant's annual rent payment as provided in Article IV or (ii) declare this Lease in default.

**Section 6.05 Garbage/Trash Removal.**

Tenant shall bear the expense of any trash, janitorial and/or cleaning services necessary to maintain the Premises in the condition required by this Lease. Tenant further agrees to dispose of all garbage and trash in accordance with local health and sanitation codes.

**Section 6.06 Alterations by Tenant.**

Tenant shall make any improvements or alterations to the Premises that are reasonably necessary to continue the operation of the Premises in accordance with Section 6.01 above. All alterations, additions and improvements made by, for or at the direction of Tenant shall, when made, become the property of Landlord and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease. Tenant shall promptly repair any damages to the Premises caused as a consequence of the installation or removal of any alterations to the Premises pursuant to this Section.

#### **Section 6.07 Trade Fixtures and Equipment.**

Any trade fixtures or equipment (collectively the "fixtures") installed in or attached to the Premises by or at the expense of the Tenant shall remain the property of Tenant, and Tenant shall have the right at any time during the term hereof, provided it is not then in default hereunder, to remove any and all of such fixtures; provided, however, that in such event, Tenant shall restore the Premises to substantially the same condition in which they were at the time Tenant took possession, ordinary wear and tear and Acts of God excepted. Any such fixtures not removed at or prior to the expiration or termination of this Lease shall be and become the property of Landlord.

#### **Section 6.08 Signs.**

Tenant shall maintain all advertising signs in accordance with all applicable zoning and other governmental regulations, unless otherwise agreed upon in writing by Landlord and Tenant.

#### **Section 6.09 Liens and encumbrances.**

Tenant shall have no right to encumber or subject the interest of Landlord in the Premises to any mortgages, deeds of trust, judgments or liens of any nature whatsoever, and upon the filing of any such encumbrance, the Tenant shall within thirty (30) days from the filing of the encumbrance cancel or remove such encumbrance, and failure to so cancel or remove such encumbrance shall constitute a default herein.

#### **Section 6.10 Notice of Federal Interest.**

Tenant accepts and acknowledges that Landlord is constructing the building upon the premises with Federal Funding and that this funding requires a Federal Interest in the property. This notice of federal interest is attached as Exhibit "C," must be separately signed contemporaneously with this Lease, and will be recorded as a condition of this Lease. This notice prohibits sale, transfer, or other disposition of the Property without Federal Government Approval.

#### **Section 6.11 Hazardous Materials.**

(a) For purposes of this Lease, the term "Hazardous Materials" shall mean and refer to (i) any hazardous or toxic, ignitable, corrosive or reactive substance, material or waste which is or becomes regulated by any local governmental authority, the State of North Carolina, or the United States Government; (ii) asbestos; (iii) petroleum and petroleum-based products; (iv) urea formaldehyde foam insulation; (v) polychlorinated biphenyls ("PCBs"); and/or (vi) freon or other chlorofluorocarbons.

(b) Tenant shall not bring onto the Premises any Hazardous Materials without the prior written approval by Landlord, other than such Hazardous Materials as are commonly used or produced as a consequence of using the Premises as permitted in Section 6.01, but only so long as the quantities thereof and their use do not violate applicable environmental laws. Any approval must be preceded by submission to Landlord of appropriate Material Safety Data

Sheets (MSD Sheets). Notwithstanding the foregoing, once Landlord has approved the introduction of a particular Hazardous Material, the further written approval of Landlord shall not be required with respect to any Substitute Hazardous Material subsequently brought on the Premises by Tenant that is substantially equivalent (in terms of use, storage, chemical composition and toxicity) to the Hazardous Material previously approved by Landlord. In the event of approval by Landlord, Tenant covenants and agrees that it will (1) comply with all requirements of any constituted public authority and all federal, state and local codes, statutes, ordinances, rules and regulations, and laws, whether now in force or hereafter adopted relating to Tenant's use of the Premises, or relating to the storage, use, disposal, processing, distribution, shipping or sale of such "Hazardous Material;" (2) comply with any reasonable recommendations by the insurance carrier of either Landlord or Tenant relating to the use by Tenant of the Premises of such Hazardous Materials; (3) refrain from unlawfully disposing of or allowing the disposal of any Hazardous Material upon, within, about or under the Premises; and (4) removal all Hazardous Materials from the Premises, either after their use by Tenant or upon the expiration or earlier termination of this Lease, in compliance with all applicable laws.

(c) Tenant shall be responsible for obtaining all necessary permits in connection with Tenant's use, storage and disposal of Hazardous Materials, and shall develop and maintain, and where necessary file with the appropriate authorities, all reports, records, receipts, manifests, filings, lists and invoices covering those Hazardous Materials. Tenant shall provide Landlord with copies of all such items upon request, and within five (5) days after receipt thereof, Tenant shall provide Landlord with copies of all notices, orders, claims or other correspondence with any federal, state or local government or agency alleging any violation of any environmental law or regulation by Tenant, or related in any manner to Hazardous Materials. In addition, Tenant shall provide Landlord with copies of all responses to such correspondence, at the time of the response. Tenant hereby indemnifies Landlord, Landlord's successors and assigns, and agrees to hold Landlord, Landlord's successors and assigns, harmless from and against any and all losses, liabilities, damages, injuries, penalties, fines, costs, expenses and claims of any and every kind whatsoever (including attorneys' fees and costs, expenses or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder, any so-called state or local "Superfund" or "Superlien" law, or any other federal, state or local statute, law; ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards on conduct concerning any Hazardous Material) paid, incurred or suffered by, or asserted against, Tenant or Landlord as a result of any claim, demand or judicial or administrative action by any person or entity (including government or private entities) from, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises of any Hazardous Material caused by Tenant or Tenant's agents, employees or invitees. If Tenant fails to comply with the covenants to be performed under this Section with respect to Hazardous Materials, then the occurrence of this event shall be considered a default hereunder; and if such default shall not be cured as provided in the Lease, Landlord shall have such rights and be permitted to exercise such remedies for such default as set forth in this Lease.

(d) Tenant shall give Landlord prompt notice of any release of Hazardous Materials, reportable or non-reportable, to federal, state or local authorities, of any fire, or of any damage occurring



on or to the Premises, the Building of which the Premises are a part, or the property on which the Premises and Building are located.

(e) Tenant will use and occupy the Premises and conduct Tenant's business in such manner that the Premises are neat and clean at all times, with all chemicals and Hazardous Materials marked for easy identification and stored according to all codes as outlined above.

## **ARTICLE VII. INSURANCE; INDEMNITY; DAMAGE BY FIRE AND OTHER CASUALTY; EMINENT DOMAIN**

### **Section 7.01** Fire and Extended Coverage Insurance.

Tenant shall maintain and pay for comprehensive fire, peril and casualty insurance, with a reputable insurer with a BEST'S rating of at least "A," with extended coverage, upon the Premises equal to the replacement value of the Improvements. If during the term of this Lease the Premises are used by the Tenant for any purpose or in any manner that causes an increase in the rates of such insurance on the Improvements, the Tenant will pay the additional premium caused thereby. Landlord shall be the insured owner and Tenant shall be an additional insured in such insurance.

### **Section 7.02** Assignment of Warranties by Landlord.

Landlord, for the term of this Lease, conveys and assigns a non-exclusive interest in its right to all warranties benefiting the Property, Premises and Improvements to the Tenant for the term of that Agreement, without making any representations as to the duration or nature of said warranties.

### **Section 7.03** Indemnification.

(a) By Tenant. Except to the extent caused by the gross negligence or willful misconduct of Landlord or Landlord Related Parties, Tenant shall indemnify, defend and hold Landlord, its commissioners, officers, directors, employees and agents (the "Landlord Related Parties") harmless against and from all liabilities, obligations, damages, penalties, claims, actions, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other professional fees (if and to the extent permitted by law), which may be imposed upon, incurred by or asserted against Landlord or any of the Landlord Related Parties and to the extent arising out of or in connection with any negligent acts or omissions (provided there is a duty to act) (including violations of law) of Tenant, the Tenant Related Parties (defined below) or any of Tenant's contractors. The provisions of this Section shall survive the termination of this Lease.

(b) By Landlord. Except to the extent caused by the gross negligence or willful misconduct of Tenant or any Tenant Related Parties, Landlord shall indemnify, defend and hold Tenant, its trustees, members, principals, beneficiaries, partners, officers, directors, employees and agents ("Tenant Related Parties") harmless against and from all liabilities, obligations, damages, penalties, claims, actions, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other professional fees (if and to the extent permitted by law), which may be imposed upon, incurred by or asserted against Tenant or any of the Tenant Related Parties and to the extent arising out of or in connection with any

negligent acts or omissions (provided there is a duty to act) (including violations of law) of Landlord, the Landlord Related Parties (defined above) or any of Landlord's contractors. The provisions of this Section shall survive the termination of this Lease.

#### **Section 7.04 Tenant's Business and Property.**

Tenant agrees to use and occupy the Premises at Tenant's own risk; and that Landlord shall have no responsibility or liability for any loss of or damage to fixtures or other personal property of Tenant, except for loss or damage occasioned by Landlord's negligence or willful misconduct. The provisions of this Section shall apply during the whole of the term hereof, and in view of the permission given to Tenant to install fixtures and do certain work prior to the Occupancy Date, shall also apply at all times prior to the Occupancy Date.

#### **Section 7.05 Public Liability Insurance.**

Tenant shall, at all times during the term hereof, keep in force at Tenant's expense in such amounts and with such companies as shall from time to time be acceptable to Landlord (and to any lender having a mortgage interest in the Premises), a reputable insurer with a BEST'S rating of at least "A," and naming as insured both Landlord and Tenant:

- (a) Public liability insurance on the Premises in the amount of \$2,000,000.00 per occurrence; and
- (b) Workers' Compensation insurance on all persons required by law.

On or before the Occupancy Date, Tenant will furnish to Landlord certificates of insurance evidencing the coverages required by this Lease. All policies required hereunder, if permitted under applicable law, shall provide for waiver of subrogation and shall contain an endorsement providing that the insurer will not cancel or materially change the coverage of said policy or policies without first giving thirty (30) days' prior written notice thereof to Landlord.

#### **Section 7.06 Mutual Waiver of Subrogation.**

For the purpose of waiver of subrogation, anything in this Lease to the contrary notwithstanding, Landlord, for itself and for Landlord's successors and assigns, releases and waives unto Tenant, and Tenant's officers, directors, agents, employees, successors and assigns, and Tenant, for itself, and Tenant's successors and assigns, releases unto Landlord, and Landlord's officers, directors, agents, employees, successors and assigns, all right to claim damages for any injury, loss, cost or damage to persons or to the Premises, or the contents and property located therein or thereon, which is occasioned by fire, explosion, accident, occurrence or condition in, on or about the Premises or any other casualty insured in policies of insurance covering such property or persons. All policies of insurance carried and maintained pursuant to this Lease, if permitted under applicable law, shall contain or be endorsed to contain a provision whereby the insurer thereunder waives all rights of subrogation against Landlord and Tenant.

#### **Section 7.07 Damage or Destruction of Premises.**

If the Premises are damaged by fire or other casualty of the type or kind insured against in the policy of fire insurance with extended coverage provided by Section 7.01 hereof, Landlord shall cause such damage to be repaired without unreasonable delay provided it can do so with the insurance proceeds provided by Section 7.01. Provided, however, if by reason of such casualty twenty percent (20%) or more of the Premises are rendered untenable in some material portion, and the amount of time required to repair the damage using due diligence is in excess of one hundred eighty (180) days, then either Tenant or Landlord shall have the right to terminate this Lease by giving written notice of termination within ninety (90) days after the date of casualty. Should such material casualty occur in the last two (2) years of the Initial Term, or during any Renewal Period thereafter, Landlord may, in its sole discretion, terminate this Lease by giving written notice to Tenant.

If the Premises shall be damaged by fire or other casualty which shall have been occasioned by the willful act of Tenant or Tenant's agents and/or employees, there shall be no abatement of rental payments; and without prejudice to any other rights and remedies of Landlord, Landlord shall have the right, but not the obligation, to repair the Premises, and Tenant shall reimburse and compensate Landlord for any loss sustained by Landlord in excess of Landlord's insurance.

Except as hereinabove provided, Landlord shall not be required to repair or rebuild the Premises in the event of destruction or damage thereto resulting from fire or other casualty. Notwithstanding anything herein to the contrary, Landlord shall have no obligation whatsoever to repair or rebuild the Premises in the event of damage or destruction not covered by the insurance required of Landlord herein. In no event shall Landlord be required to expend in excess of the fire and extended coverage insurance proceeds actually received as a result of such damage or casualty. With respect to any damage which Landlord is obligated or may elect to repair under the terms of this Section, Tenant waives any statutory or other right Tenant may have to cancel this Lease as a result of such damage.

#### **Section 7.08 Eminent Domain.**

If a portion of the Premises or a portion of the Premises is taken under the power of eminent domain (including any conveyance made in lieu thereof) and such taking shall, in the Tenant's reasonable judgment, make the operation of Tenant's business on the Premises impossible, then Tenant shall have the right to terminate this Lease by giving Landlord written notice of such termination within thirty (30) days after such taking; and if Tenant does not so elect to terminate this Lease, Landlord, at Landlord's expense, will repair and restore the Premises to tenantable condition, but only if it can do so at a cost not to exceed the proceeds paid to the Landlord from such taking.

All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) whether for the whole or a part of the Premises, shall be the property of the Landlord, whether such award is compensation for damages to the Landlord's or Tenant's interest in the Premises, and Tenant hereby assigns all Tenant's interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for loss of business or for the taking of Tenant's fixtures and other property within the Premises if a separate award for such items, or relocation of the business, is made to Tenant.

**ARTICLE VIII.**  
**QUIET ENJOYMENT AND LANDLORD'S**  
**RIGHT OF ENTRY**

**Section 8.01** Covenant of Quiet Enjoyment.

Landlord represents that Landlord has full right and authority to lease the Premises upon the terms and conditions herein set forth and that subject to the terms of this Lease, Tenant shall peacefully and quietly hold and enjoy the Premises for the full Term hereof, so long as Tenant does not default in the performance of any of Tenant's covenants hereunder.

**Section 8.02** Entry by Landlord and Agents.

After forty-eight (48) hours' notice has been given to Tenant, except in the case of an emergency in which case no notice shall be required, Landlord and Landlord's duly authorized agent or agents shall have the right to enter the Premises for any legitimate purpose, including, but not limited to, the following:

- (a) To inspect or protect the Premises.
- (b) To effect compliance with any law, ordinance or regulation of any lawful authority.
- (c) To make or supervise repairs, alterations or additions to the Premises.
- (d) To show the Premises to prospective purchasers and Landlord's mortgagees and during the last six (6) months of the term of this Lease, to show the Premises to prospective tenants.
- (e) To alter or otherwise repair the Premises for re-occupancy at any time after Tenant has vacated the Premises.

Authorized entry by Landlord or Landlord's agent or agents shall not constitute an eviction of Tenant or deprive Tenant of Tenant's rights or otherwise alter or affect the terms of this Lease. Notwithstanding the foregoing paragraph, Landlord's entry into the Premises shall not unreasonably interfere with Tenant's operation of its business.

**Section 8.03** Surrender.

At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in good order and condition, clean and free of refuse, reasonable wear and tear excepted, and shall deliver all keys to Landlord. Before surrendering the Premises, Tenant shall, at Landlord's option, remove all abandoned and untagged wiring, including unused copper and fiber cabling wiring, all of its signs, personal property and trade fixtures and such alterations or additions to the Premises made by Tenant as may be specified by Landlord for removal, and shall repair any damage caused by such property or the removal thereof. If Tenant fails to remove its personal property and fixtures at the end of the Lease Term, such property shall, at Landlord's option, be deemed abandoned and shall become the property of Landlord.

## **ARTICLE IX.**

### **DEFAULTS**

#### **Section 9.01** Events of Default.

The following shall constitute Events of Default under this Lease:

(a) Failure of Tenant to pay Rent or any other amount due under this Lease within fifteen (15) days after receipt of written notice from Landlord that such amount is past due or to cure within fifteen (15) days or a reasonable time any other of the Events of Default hereinafter after receipt of written notice to Tenant from Landlord specifying such default:

(b) Failure of Tenant to operate on the Premises in accordance with the terms of this Lease;

(c) Tenant (A) becoming insolvent or the subject of insolvency proceedings; or (B) being unable, or admitting in writing its inability, to pay debts as they mature; or (C) making a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property; or (D) filing a petition or other pleading seeking reorganization, composition, readjustment, or liquidation of assets or requesting similar relief; or (E) applying to a court for the appointment of a receiver for any of its assets; or (F) having a receiver or liquidator appointed for any of its assets, and such receiver shall not be discharged within ninety (90) consecutive days after his appointment; or (G) becoming the subject of an "order for relief" within the meaning of the United States Bankruptcy Code; or (H) filing an answer to a creditor's petition admitting the material allegations thereof for liquidation, reorganization, readjustment, or composition or to effect a plan or other arrangement with creditors or fail to have such petition dismissed within thirty (30) days after the same is filed against Tenant.

#### **Section 9.02** Remedies.

Upon the occurrence of an Event of Default, Landlord may, after the expiration of the applicable cure period, terminate the lease of the Premises and, without prejudice to any other remedy, re-enter and take possession of the Premises.

#### **Section 9.03** Attorneys' Fees and Court Costs.

In the event that either the Landlord or Tenant is required to exercise its remedies by filing a lawsuit in a court of general jurisdiction alleging a breach of this Lease, then the prevailing party in any such action shall be entitled to be reimbursed its reasonably incurred attorney's fees and court costs.

## **ARTICLE X.**

### **NOTICE**

Whenever in this Lease it shall be required to permit that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served and shall not be deemed to have been given or served unless in writing forwarded by certified mail return receipt requested addressed as follows:

To Landlord: Lincoln County  
115 West Main St.  
Lincolnton, North Carolina 28092  
Attention: County Manager

To TENANT: Gaston Family Health Services, Inc.  
991 West Hudson Blvd  
Gastonia, NC 28052  
Attention: President

Such addresses may be changed from time to time by either party by serving notice as above provided.

## **ARTICLE XI.**

### **RELEASE AND WAIVER OF RESTRICTION**

Notwithstanding the restrictions set forth in those North Carolina Special Warranty Deeds recorded in Book 1852 at Page 315 and in Book 2518 at Page 118 of the Lincoln County Public Registry (the "Restrictions"), Authority has agreed to a limited waiver of the Restrictions against Landlord but only with respect to the use by Tenant of the Premises for the purposes set forth in Section 6.01 of this Lease. The Authority's waiver does not apply to any use of the Premises by an assignee, subtenant or licensee of Tenant or any other operator of the Premises other than Tenant and the waiver will immediately expire upon Tenant's assignment of the Lease or sublease or licensing of all or any portion of the Premises. For the purposes of this Article XI, an assignment will be deemed to include any change in ownership or control (whether legal or actual) of Tenant. This waiver will automatically expire upon the expiration or earlier termination of this Lease. In addition, the Authority's waiver does not apply to any use of the Premises other than the specific use set forth in Section 6.01 of this Lease. Authority's limited waiver of the Restrictions as set forth in this Lease will not be deemed to be a release of the Restrictions or a waiver or relinquishment of the right to insist upon and to enforce strict compliance with the Restrictions except as expressly set forth in this Lease. Other than the limited waiver described above, the Restrictions will remain in full force and effect. Landlord and Tenant agree to provide to Authority written notice of any assignment of the Lease, any sublease or licensing of the Premises, any change in use of the Premises and/or any change in the ownership or management of Tenant.

## **ARTICLE XII.**

## **MISCELLANEOUS**

### **Section 12.01 Survival.**

All provisions of this Lease which by their intent or effect are with respect to the lease of the Premises after the expiration or termination of the lease shall survive the Effective Date or the expiration or termination of the lease of the Premises, as applicable.

### **Section 12.02 Waiver of Breach.**

No failure by either party to insist upon the strict performance of any term, covenant, condition, or provision of this Lease or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant, condition, or provision, or a waiver or relinquishment for the future of the right to insist upon and to enforce strict compliance with all terms, covenants, conditions, and provisions of this Lease. No term, covenant, condition, or provision thereof shall be waived, altered, or modified except by a written instrument executed by the waiving party. No waiver of any breach shall affect or alter this Lease, but every term, covenant, condition, and provision of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

### **Section 12.03 Entire Agreement.**

This Lease contains the entire agreement of Tenant and Landlord with respect to the matters covered hereby, and no other agreement, proposal, statement, or promise, made by either to the other, or to any employee, officer, or agent of the other, whether oral or written, which is not contained or incorporated herein, shall be binding or valid. No modification of this Lease shall be binding on the parties unless it is in writing and executed by both parties.

### **Section 12.04 Controlling Law and Venue.**

This Lease shall be construed and enforced in accordance with the laws of the State of North Carolina. The proper venue for any action arising from this Lease shall be the Lincoln County Superior Court.

### **Section 12.05 Severability.**

If any one or more of the covenants, agreements, or provisions of this Lease shall be determined by a court of competent jurisdiction to be invalid, the invalidity of such covenants, agreements, and provisions shall in no way affect the validity or effectiveness of the remainder of this Lease and this Lease shall continue in force to the fullest effect permitted by law.

### **Section 12.06 Counterparts.**

This Lease may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, constituting but one and the same instrument.

### **Section 12.07 Drafting Conventions.**

The following principles apply to the interpretation of this Lease: (i) the captions of each section are provided for convenience only and do not affect the meaning of the Lease; (ii) the terms “party” or “parties” refer only to the Landlord and Tenant; (iii) any examples provided are not to be construed to limit, expressly or by implication, the matter they illustrate; (iv) the clause “including” and any variations thereof should be construed to mean “including, but not limited to;” and (v) unless otherwise specified, any reference to a statute or regulation means the statute or regulation as amended or supplemented from time to time any corresponding provisions of successor statutes or regulations.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;**

**SIGNATURES ON FOLLOWING PAGE]**



**IN TESTIMONY WHEREOF**, Landlord has caused this instrument to be signed in its corporate name by its Chairman of the Board of Commissioners and attested by its Secretary; Tenant has caused this instrument to be signed in its corporate name by its President on behalf of the corporation; and the Authority has caused this instrument to be signed by its President on behalf of the authority, all by authority duly and regularly given, this the day and year first above written.

**LINCOLN COUNTY, a body corporate  
and politic**

**ATTEST:**

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Cecelia Martin, Chairperson

**GASTON FAMILY HEALTH SERVICES, INC.**

By: \_\_\_\_\_  
Robert Spencer, President

**THE CHARLOTTE-MECKLENBURG  
HOSPITAL AUTHORITY**

By: \_\_\_\_\_  
\_\_\_\_\_(name)  
\_\_\_\_\_(title)

The Authority joins in the execution of this Lease for the purposes described in Article XI and no other.

**STATE OF NORTH CAROLINA  
LANDLORD OF LINCOLN**

Before me, a Notary Public, personally appeared this day Cecelia Martin, who, being duly sworn, acknowledged that she is Chairman of the Board of Commissioners of Lincoln County, a body corporate and politic and further acknowledged, on behalf of Lincoln County, the due execution of the foregoing instrument on behalf of Lincoln County.

WITNESS my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

**STATE OF NORTH CAROLINA  
LANDLORD OF LINCOLN**

Before me, a Notary Public, personally appeared this day Robert Spencer, who, being duly sworn, says that he is the President of Gaston Family Health Services, Inc., a North Carolina non-profit corporation and acknowledged, on behalf of said corporation, the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

NORTH CAROLINA, \_\_\_\_\_ LANDLORD

I, \_\_\_\_\_, a Notary Public for \_\_\_\_\_ County, North Carolina, do hereby certify that \_\_\_\_\_, personally came before me and acknowledged that he/she is the \_\_\_\_\_ of The Charlotte-Mecklenburg Hospital Authority, a non-profit corporation, and that by authority duly given and as the act of and on behalf of the said body, the foregoing instrument was signed and sealed in its name by him/her.

WITNESS my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2016.

My commission expires:\_\_\_\_\_

Notary

**Public**

## **EXHIBIT "A"**

### **(PROPERTY DESCRIPTION)**

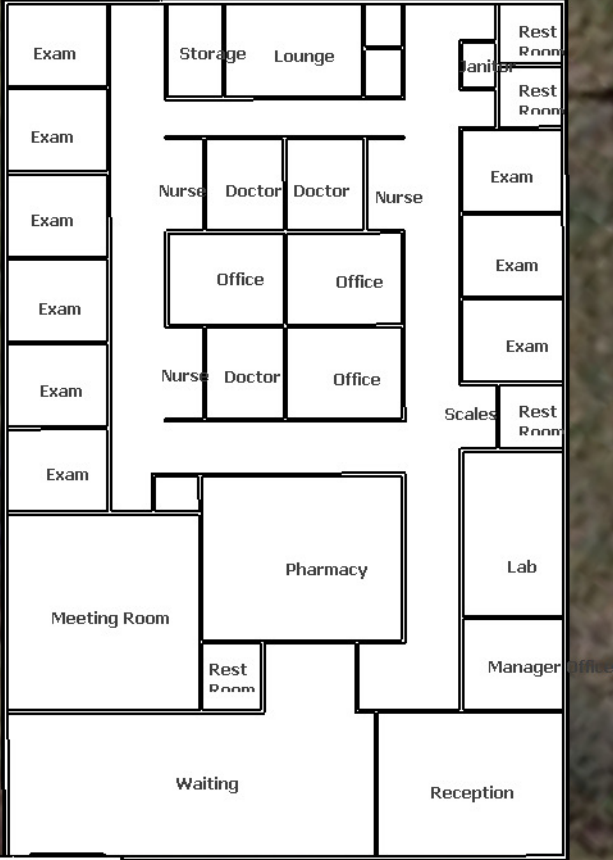
All that tract or parcel of land containing 9.76 acres more or less in Lincolnton Township, Lincoln County, NC, bounded, now or formerly, on the North by State Road 1419, on the East by Lincoln Medical Park and other property of Lincoln County Development Corp., on the South by Forest Hills, on the West by Lincoln County Hospital and Lincoln Nursing Center, described by metes and bounds in accordance with a survey prepared by Ronnie Dedmon, Registered Surveyor, dated February 8, 1993, as follows:

BEGINNING at an old iron in the center of State Road 1419, a common corner with Lincoln Medical Park and runs thence, with Lincoln Medical Park, South 16 deg. 58 min. 30 sec. East 292.15 feet to an old iron on the southern margin of a Duke Power Co. right-of-way; thence along the southern margin of said right-of-way and with property of Lincoln Medical Park, South 67 deg. 13 min. 55 sec. East 511.12 feet to an old iron; thence a new line, South 14 deg. 58 min. 4 sec. East 345.62 feet to an old iron; thence with Forest Hills property South 55 deg. 3 min. 13 sec. West 429.80 feet to an iron and South 55 deg. 02 min. 24 sec. West 163.05 feet to an iron; thence with and continuing North 41 deg. 25 min. 4 sec. West 75 feet to another old iron; thence North 56 deg. 7 min. 43 sec. East 480.23 feet to an old iron; thence North 57 deg. 25 min. 7 sec. West 305.87 feet to an old iron; thence with Lincoln Nursing Center property, North 57 deg. 29 min. 50 sec. West 554.45 feet to an old iron near the southern margin of State Road 1419; thence North 56 deg. 34 min. 35 sec. West 43.40 feet to a point in the center of State Road 1419; thence along the centerline of said road, North 73 deg. 36 min. 44 sec. East 457.46 feet to the point and place of BEGINNING.

The foregoing property is conveyed SUBJECT to the right of way for State Road #1419 and to the right of way for Duke Power Co., both shown on the survey referred to above, and also subject to a sewer line easement heretofore granted to the City of Lincolnton.

**EXHIBIT “B”**  
**(BUILDING)**

**EXHIBIT “C”**  
**(NOTICE OF FEDERAL INTEREST)**



## NOTICE OF FEDERAL INTEREST

On April 26, 2016 the Health Resources and Services Administration awarded Grant No. C8DCS29707 to Gaston Family Health Services. The grant provides federal funds for construction of a medical clinic facility, which is located on the property described below in Lincoln County, State of North Carolina:

### (GRANTEE INSERT LEGAL DESCRIPTION OF PROPERTY)

The Notice of Award for this grant includes conditions on use of the aforementioned property and provides for a continuing Federal interest in the property. Specifically, the property may not be (1) used for any purpose inconsistent with the statute and any program regulations governing the award under which the property was acquired; (2) mortgaged or otherwise used as collateral without the written permission of the Associate Administrator, Office of Federal Assistance Management (OFAM), Health Resources and Services Administration (HRSA), or designee; or (3) sold or transferred to another party without the written permission of Associate Administrator, Office of Federal Assistance Management (OFAM), Health Resources and Services Administration (HRSA), or designee. These conditions are in accordance with the statutory provisions set forth in Title 45 CFR part 74 or 92 (as appropriate), the HHS Grants Policy Statement, and other terms and conditions of award.

These grant conditions and requirements cannot be nullified or voided through a transfer of ownership. Therefore, advance notice of any proposed change in usage or ownership must be provided to the Associate Administrator, Office of Federal Assistance Management (OFAM), Health Resources and Services Administration (HRSA), or designee.

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*\* Description should include specificity to determine if the Federal Interest applies to the land, building, or part thereof. Street or campus address should be included whenever possible*