

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, OCTOBER 15, 2018**

The Lincoln County Board of County Commissioners met October 15, 2018 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Bill Beam, Chair  
Anita McCall, Vice Chair  
Martin Oakes  
Richard Permenter  
Carrol Mitchem

Others Present:

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

**Call to Order:** Chairman Beam called the October 15, 2018 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence and led in the Pledge of Allegiance.

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, October 15, 2018**  
**6:30 PM**

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

Call to Order - Chairman Bill Beam

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
  1. VTS Refunds
  2. Tax Requests for Releases - 9/15 - 10/15/18

3. Surplus Property
4. 2019 Holiday Schedule
5. Proclamation - 75th Anniversary of the Textile Center at Gaston College
6. Memorandum of Understanding - Quarter Cent Sales Tax
7. Proclamation - Caregiver Month
8. Update to County's Records Retention and Disposition Schedule
9. Ordinance - Crouse Christmas Parade Road Closure
  
3. Red Ribbon Week Proclamation - Jon Henderson, USMC (Ret), Unit Commander - Mecklenburg County Young Marines
4. Planning Board Recommendations - Randy Hawkins
5. Public Hearing - Golf Cart Ordinance – Josh Grant
6. Public Hearing - FY 2020 TLC Community Transportation Program Grant and Consolidated Capital Application - Ron Rombs
7. Public Hearing - FY 2020 CTP Application - Kathryn Saine
8. DSS Request for an Additional Attorney Position - Candy Burgin, Tony Carpenter, Ruth Lockman
9. City/County Airport Agreement - Josh Grant
10. Grant Application - Emergency Overdose: Local Mitigation to the Opioid Crisis - Maggie Dollar
11. Sole Source Library Purchase of Eight Botley Coding Robot Classroom Sets from Learning Resources for the total cost of \$2399.92 - Jennifer Sackett
12. Approval for Acceptance of MOU and Funds from the Dolly Parton Imagination Library - Jennifer Sackett
13. Approval for Sole Source Purchase of Seven Early Literacy and Three Afterschool Edge Computer Stations from AWE Learning for the total of \$27,990 - Jennifer Sackett
14. Request to Approve Bid to Replace Ceiling Tile and Repaint Ceiling Grid at Jonas Library - John Henry
15. Budget Ordinance Amendment #2 – Deanna Rios
16. Capital Project Ordinance Amendment #1 – Deanna Rios
17. Grant Project Ordinance #3 – Deanna Rios
18. Public Comments
19. Finance Officer's Report - Deanna Rios
20. County Manager's Report
21. County Commissioners' Report
22. County Attorney's Report

23. Vacancies/Appointments
24. Calendar
25. Other Business

Information Only - No Action Needed  
- Register of Deeds Report  
- Property Tax Collection Report

Adjourn

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to adopt the agenda as amended adding BOA 14 as Item 17a and Item 10 under the Consent Agenda.

**Consent Agenda:** Josh Grant reviewed the items on the Consent Agenda.

1. VTS Refunds
2. Tax Requests for Releases - 9/15 - 10/15/18
3. Surplus Property
4. 2019 Holiday Schedule
5. Proclamation - 75th Anniversary of the Textile Center at Gaston College
6. Memorandum of Understanding - Quarter Cent Sales Tax
7. Proclamation - Caregiver Month
8. Update to County's Records Retention and Disposition Schedule
9. Ordinance - Crouse Christmas Parade Road Closure

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the Consent Agenda as presented.

**Red Ribbon Week Proclamation:** Jon Henderson, USMC (Ret), Unit Commander with the Mecklenburg County Young Marines and Private Young Marine Hunter Hullette requested the Board's approval of the Red Ribbon Week Proclamation.

**UPON MOTION** by Commissioner McCall, seconded by Commissioner Permenter, the Board voted unanimously to approve the Red Ribbon Week Proclamation as presented.

**PROCLAMATION  
RED RIBBON WEEK**

**Whereas**, communities across America have been plagued by the numerous problems associated with illicit drug use and those that traffic in them; and

**Whereas**, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Mecklenburg County Young Marines of the Marine Corps League to foster a healthy, drug-free lifestyle; and

**Whereas**, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

**Whereas**, the red ribbon has been chosen as a symbol Commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration Special Agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

**Whereas**, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

**Whereas**, October 23-31 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment;

**Now, Therefore, I, Bill Beam, Chairman, do hereby proclaim October 23-31 as *RED RIBBON WEEK* in *Lincoln County, NC* and urge all citizens to join me in this special observance.**

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Bill Beam, Chairman

ATTEST:

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Amy S. Atkins, Clerk

**Planning Board recommendations:** Randy Hawkins presented the following:

**CUP #386 George Bundy, applicant** (Parcel ID# 23957) A request for a conditional use permit to place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. The 6.4-acre parcel is located at 2494 Keener Road, on the south side of Keener Road about 2,000 feet west of Hill Road, in Ironton Township.

The Planning Board voted 6-1 to recommend approval.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve the Findings of Fact as submitted by the Planning Board.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve CUP #386 – George Bundy, applicant.

**PCUR #26A DePaul Community Facilities, Inc., applicant** (Parcel ID# 72768) A request to amend a conditional use permit to allow an expansion of an assisted living center, including a 20-bed addition. The 3.0-acre parcel is located at 3900 Wexford Lane, at the end of Wexford Lane about 600 feet southwest of N.C. 16 Business, in Catawba Springs Township.

The Planning Board voted 7-0 to recommend approval.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Findings of Fact as submitted by the Planning Board.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve PCUR #26A – DePaul Community Facilities, Inc., applicant, as recommended by the Planning Board.

**CZ #2018-6 Robert Dober, applicant** (Parcel ID# 24149) A request to rezone a 0.95-acre lot from B-N (Neighborhood Business) to CZ B-G (Conditional Zoning General Business) to allow vehicle sales as an additional permitted use. The property is located at 3431 E. NC 150 Hwy., on the north side of N.C. 150 about 800 feet west of Shuford Road, in Ironton Township.

The Planning Board voted 7-0 to recommend approval.

**A MOTION** by Commissioner Permenter to disapprove the Statement of Consistency and Reasonableness as presented by the Planning Board. Vote: 2 – 3 AYES: Permenter, Oakes, NOES: Beam, McCall, Mitchem

**A MOTION** by Commissioner McCall to approve the Statement of Consistency and Reasonableness as submitted by the Planning Board. Vote: 3 – 2 AYES: Beam, McCall, Mitchem, NOES: Permenter, Oakes

**A MOTION** by Commissioner McCall to approve CZ #2018-6 – Robert Dober, applicant, as recommended by the Planning Board. Vote: 3 – 2 AYES: Beam, McCall, Mitchem, NOES: Permenter, Oakes

**Public Hearing – Golf Cart Ordinance:** Josh Grant introduced the Golf Cart Ordinance to the Board, saying the Board directed staff to draft a Golf Cart Ordinance. State Statutes allow for counties to allow golf carts to be driven on roadways with speed limits of 35 mph or less. This is

the first reading of the ordinance, which must be approved unanimously at first reading to be adopted.

Commissioner Oakes mentioned that it is currently illegal to drive any golf cart on the roads, but the Ordinance makes it legal so people will stop getting pulled over.

Chairman Beam said this is not to deter golf carts, but to legalize something that is not currently legal. He said he opposes the registration fees and the inspections of golf carts.

Jacob Glass reminded the Board that since this is the first time the Ordinance will come up, it must be adopted unanimously to take effect. If not, it will be placed on the next agenda for another vote.

Commissioner Permenter reviewed some amendments to the draft ordinance, which included holding the golf cart owner responsible instead of the driver and only allowing golf carts on roads with speed limits of 25 mph and under.

Commissioner McCall spoke concerning the City's Golf Cart Ordinance. She said she feels the driver should be 16 years old, but a driver's license should not be mandated.

Chairman Beam opened the public hearing concerning the Golf Cart Ordinance. Being no speakers, Chairman Beam closed the public hearing.

Commissioner Oakes proposed going through the Ordinance paragraph by paragraph.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to agree that there will be a Golf Cart Ordinance with terms to be agreed upon.

Mr. Atkins reminded the Board that there will be a work session before the next meeting, at which time this Ordinance can be discussed in greater detail.

**A MOTION** by Commissioner Oakes to go through the Ordinance paragraph by paragraph to make necessary changes.

**A SUBSTITUTE MOTION** from Commissioner McCall to table Commissioner Oakes motion and move this to the November 5, 2018 work session. **VOTE:** 4 – 1 (Oakes against)

**Public Hearing – FY 2020 TLC Community Transportation Program Grant and Consolidated Capital Application:** Ron Rombs presented the FY 2020 Community Transportation Program Grant and Consolidated Capital application. The North Carolina Department of Transportation (NCDOT) administers all state and federal funds applicable to providing public transportation.

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

Total NC DOT Budget	Lincoln County Matching Funds		
Administrative	\$241,738	15% Match	\$36,261
Capital	\$382,300	10% Match	\$38,230
Total Funding	\$624,038	County Match	\$74,491

The Administrative cost will cover the salaries and benefits for the Transportation Manager, Transportation Supervisor, Administrative Secretary and 50% of the DSS Medicaid Transportation Coordinator positions of TLC and most normal day to day administrative costs such as office supplies, rent and utilities.

The Consolidated Capital will cover the cost of six (6) replacement LTV's and replacement radios and equipment.

Chairman Beam opened the public hearing concerning the FY 2020 Community Transportation Program Grant and Consolidated Capital application. No speakers appeared and the public hearing was closed.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adopt the Public Transportation Program Resolution as preseted.

## **PUBLIC TRANSPORTATION PROGRAM RESOLUTION**

### **FY 2020 RESOLUTION**

**Section 5311 (including ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.**

Applicant seeking permission to apply for Public Transportation Program funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances and the required local match.

A motion was made by *(Board Member's Name)* \_\_\_\_\_ and seconded by *(Board Member's Name or N/A, if not required)* \_\_\_\_\_ for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, non-Community Transportation applicants may apply for funding for "purchase-of-service" projects under the Capital budget Section 5310 program.

WHEREAS, *(Legal Name of Applicant)* Transportation Lincoln County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

**Public Hearing – FY 2020 CTP Application:** Brian Hayes presented the following information concerning the CTP Application.

Fiscal Year 2020 (5310) Capital – Purchase of Service 2019-2020 administers all state and federal funds applicable to provide public transportation. Lincoln County is required to provide matching funds to support Capital Purchase of Service grant. Matching funds is 10% of the Capital cost.

Total NCDOT Budget Capital = \$85,000	Lincoln County Matching Funds 10% Match = \$8,500
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The 5310 Capital will cover purchased service through Transportation Lincoln County.

Mr. Hayes requested that the Board approve the Capital (5310) application in the sum of \$85,000 and adopt the resolutions to apply for the 5310 Capital Grant.

Chairman Beam opened the public hearing concerning the FY 2020 (5310) Capital CTP Application. No speakers appeared and the public hearing was closed.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the Capital (5310) application in the sum of \$85,000 and adopt the Resolutions to apply for the 5310 Capital Grant.

## **HUMAN SERVICE AGENCY TRANSPORTATION RESOLUTION**

**State Funds**

### **FY 2020 RESOLUTION**

**Section 5311 (ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.**

Applicant seeking permission to apply for Human Service Transportation funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances, and the required local match.

A motion was made by (Board Member's Name) \_\_\_\_\_ and seconded by (Board Member's Name or N/A, if not required) \_\_\_\_\_ for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services; and

WHEREAS, the funds applied for may be Administrative, Operating, Planning or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, non-Community Transportation applicants may only apply for funding for "purchase-of-service" projects under the Section 5310 program

WHEREAS, (Legal Name of Applicant) **Lincoln County Senior Services** hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project, prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, and all administrative requirements related to the applications made to and grants received from the North Carolina Department of Transportation;

NOW, THEREFORE, be it resolved that the (Authorized Official's Title)\* **County Manager of Lincoln County** of (Name of Applicant's Governing Body) **Kelly G. Atkins** is hereby authorized to submit a grant application for state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I (Certifying Official's Name)\* **Amy S. Atkins** (Certifying Official's Title) **Clerk to the Board** do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (Name of Applicant's Governing Board) \_\_\_\_\_ duly held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Certifying Official

\*Note that the authorized official, certifying official, and notary public should be three separate individuals.

Seal Subscribed and sworn to me (date) \_\_\_\_\_

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

\_\_\_\_\_  
Printed Name and Address

My commission expires (date) \_\_\_\_\_

\_\_\_\_\_  
Affix Notary Seal Here

## **PUBLIC TRANSPORTATION PROGRAM RESOLUTION**

### **FY 2020 RESOLUTION**

**Section 5311 (including ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.**

Applicant seeking permission to apply for Public Transportation Program funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances and the required local match.

A motion was made by *(Board Member's Name)* \_\_\_\_\_ and seconded by *(Board Member's Name or N/A, if not required)* \_\_\_\_\_ for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, non-Community Transportation applicants may apply for funding for "purchase-of-service" projects under the Capital budget Section 5310 program.

WHEREAS, *(Legal Name of Applicant)* \_\_\_\_\_ hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

**DSS Request for an Additional Attorney Position:** Candy Burgin, Tony Carpenter and Ruth Lockman presented the following:

The Lincoln County Department of Social Services is requesting an additional attorney position to be hired immediately. The demands of legal services have increased to a level where one attorney cannot handle the workload.

Inadequate legal services for the department can have devastating consequences. Children and disabled adults can return to homes where abuse and neglect may be occurring, federal funding can be withheld without appropriate court orders, efforts to collect child support for parents and children can be slowed if legal work is not processed correctly.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve the DSS Request for an Additional Attorney position.

**City/County Airport Agreement:** Josh Grant presented the following:

In order to be in compliance with the Federal Aviation Administration (FAA) and North Carolina Department of Transportation – Division of Aviation (NCDOT-DOA) funding guidelines, the County will have to take several procedural actions over the course of the remainder of the year. An agreement with the City of Lincolnton to address sponsorship and land ownership has been drafted by the County Attorney's Office as the first step in completing the items necessary to achieve compliance.

NORTH CAROLINA

LINCOLN COUNTY

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the "Effective Date"), by and between the COUNTY OF LINCOLN (hereinafter called the "County"), a body corporate and politic authorized pursuant to the laws of the State of North Carolina and the CITY OF LINCOLNTON (hereinafter called the "City"), a municipal corporation organized under the laws of the State of North Carolina;

RECITALS:

- A. Lincolnton-Lincoln County Airport (the "Airport") has been controlled by the Lincolnton-Lincoln County Airport Authority (the "Authority"), a body corporate and politic funded in part by the City and in part by the County;
- B. The property upon which the Airport is located (the "Airport Property") is jointly owned by the City and County, and is leased to the Authority;
- C. The City desires to be relieved of some of the responsibility of funding the Authority and many of the further responsibilities for the maintenance and upkeep of the Airport and the Airport Property;
- D. Prior to the execution of this Agreement, the City and County petitioned the North Carolina General Assembly, by and through their local state senator and representative, to submit as concurrent bills in the Senate and House, that local legislation in substantially which has now been passed as NC Session Law 2017-104 (the "Local Legislation");
- E. The County and the City have power pursuant to N.C.G.S. §153A-445(a)(1) and Article 20 of Chapter 160A of the North Carolina General Statutes to jointly exercise any function which they have been granted the power to exercise alone or to contract with the other for the exercise of any governmental function which they have been granted the power to exercise alone and to enter into contracts or agreements to specify the details of these joint undertakings;
- F. The County and the City desire to transfer their sponsorship of the Airport to the Authority; and
- G. The parties believe that it would be to their mutual advantage as well as to the advantage of all the citizens of the County and the City for the City and County to enter into this Agreement provided hereunder.

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto and for the purposes aforesaid, it is hereby agreed between the County and City as follows:

1. Ownership of the Airport Property shall be transferred to the Authority by special warranty deeds executed by the City and the County to the Authority and recorded at such time after the sponsorship change process to the Authority is complete and the title transfer is requested by the North Carolina Department of Transportation Aviation Division. Sponsorship of the Airport by the County and the City shall be transferred to the Authority.
2. The City shall no longer be responsible for any matching of grants by sponsors, as provided by State law.
3. Any operating deficit or cost of the Authority arising from the Airport shall thereafter be funded proportionately by the City and County in proportion to the rate at which received sales taxes are allocated (the "Sales Tax Formula"), as the same may be periodically calculated and allocated, except that in no event shall the City be required

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to pay more than \$60,000.00 in any fiscal year for such deficit or cost.

4. The City shall share in personal and real property tax revenue arising from the Airport and Airport Property in proportion to the ratio of the Sales Tax Formula, as provided in Paragraph 3 herein. Notwithstanding Paragraph 9(n) herein, the provisions of Paragraph 4 cannot be terminated until the City has received proceeds in the amount of \$1,439,222.00 (the "City Proceeds"). At such time the City has received all of the City Proceeds, this Paragraph shall automatically terminate and the City shall not receive any further personal and real property tax revenue arising from the Airport and Airport Property. The City Proceeds were derived by taking half of the tax value of the Airport Property with no improvements.

5. The Authority's board shall be reconstructed as a five member board, with one member appointed by the City and four members by the County; however, one of the four members selected by the County shall reside within the City of Lincolnton and the other three shall reside within the County. The City and County shall request the Authority to maintain the name of the Airport as the "Lincolnton Lincoln County Airport."

6. The members on the Authority's board shall have staggered three-year terms and a two-term limit, with a chairman to be designated by the County.

7. Default. In the event of a default, the non-defaulting party shall be entitled to the remedy of specific performance and in the reimbursement of all court costs and attorney's fees expended in the successful prosecution thereof, provided the non-defaulting party first provides the defaulting party with a written notice of default and thirty-day write to cure said default.

8. Warranties and Representations. As an inducement for each party to enter into this Agreement, the parties warrant and represent as follows:

- a. The County and City each have among their powers the authority to contract with one another to perform such undertakings as are described in this Agreement.
- b. Entry into this Agreement by either party will not violate any law, judgment, order, ruling or regulation applicable and does not constitute a breach of or default under any agreement or instrument by which either of the entities is bound.
- c. The County and City each has or holds, and will continue to have or hold through the date of transfer and closing, all appropriate permits necessary to effectuate their respective responsibilities under this Agreement or will use their best efforts to obtain such permits.

9. Miscellaneous Provisions.

- a. To the extent allowed by law, the City shall indemnify, defend and hold harmless the County, its elected and appointed officers, and its duly authorized agents, servants and employees from any and all costs, expenses or liabilities (including costs, expenses or liabilities to third parties and attorney's fees) which are caused by or arise from the City's breach of this Agreement or the negligent or willful acts or omissions of the City or its agents, servants, employees or subcontractors provided such cost, expenses or liabilities do not arise as a result of the negligent or willful acts or omissions of County.
- b. To the extent allowed by law, the County shall indemnify, defend and hold harmless the City, its elected and appointed officers, and its duly authorized agents, servants and employees from any and all costs, expenses or liabilities (including costs, expenses or liabilities to third parties and attorney's fees) which are caused by or arise from the County's breach of this Agreement or the negligent or willful acts or omissions of the County or its agents, servants, employees or subcontractors provided such cost, expenses or liabilities do not arise as a result of the negligent or willful acts or omissions of the City.

c. All notices given pursuant to the terms of this Agreement shall be in writing and delivered in person or transmitted by certified mail, return receipt requested, postage prepaid, to the following entities:

The City: Lincolnton City Manager  
114 W. Sycamore St.  
Lincolnton, North Carolina 28092

The County: Lincoln County Manager  
115 W. Main St.  
Lincolnton, North Carolina 28092

d. This Agreement embodies the entire Agreement between the parties in connection with the subject matter contained herein, and there are no oral or parol agreements, representations or inducements existing between the parties relating to this transaction, which are not expressly set forth herein and covered hereby. This Agreement may not be modified, released or waived except by a written agreement signed by all of the parties hereto.

e. Nothing contained herein shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other party in any manner whatsoever.

f. No written waiver by any party at any time of any breach of any other provision of this Agreement shall be deemed a waiver of a breach of any provision herein or a consent to any subsequent breach of the same or any other provisions. If any action by any party shall require the consent or approval of another party, such consent or approval of such action on any occasion shall not be deemed a consent to or approval of such action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion.

g. The various rights, powers and remedies herein contained and reserved to either the County or the City shall not be considered as exclusive of any other right, power or remedy, but the same shall be construed as cumulative and shall be in addition to every other right, power or remedy now or hereafter existing at law, in equity or by statute. No delay or omission of a party to exercise any right, power or remedy arising from any omission, neglect or default of the other party shall impair any such right, power or remedy or shall be construed as a waiver of any such default or and acquiescence therein.

h. In the event either of the parties receives notice of or undertakes the defense or the prosecution of any actions, claims, suits, administrative or arbitration proceedings or investigations in connection with this Agreement, the party receiving such notice or undertaking such prosecution shall give the other party timely notice of such proceedings and will inform the other party in advance of all hearings regarding such proceedings.

i. The captions, section numbers and article numbers appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope of such paragraphs or articles of this Agreement nor in any way affect this Agreement.

j. This Agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina.

k. Time shall be of the essence of this Agreement and each and every term and condition thereof.

l. Words of any gender used in this Agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

m. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be

necessary in making proof of this Agreement to produce or account for more than one such fully-executed counterpart.

n. This Agreement shall be automatically renewed for successive two (2) year periods, unless either party hereto provides a written notice of termination no more than ninety (90) and no fewer than thirty (30) days prior to said renewal date.

o. Both the County and the City acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted by respective counsel for both the County and the City. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

p. If any provision under this Agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this Agreement or its application that can be given effect without the invalid provision or application.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed in their respective names by their proper officials, all by authority of resolution of the governing bodies of each of the taxing units duly adopted, this the day and year first above written.

**SIGNATURES APPEAR ON THE FOLLOWING PAGE**

**LINCOLN COUNTY**

By: \_\_\_\_\_  
Bill Beam, Chairman of the  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Amy S. Atkins  
Clerk to the Board  
Lincoln County Board of Commissioners

**CITY OF LINCOLNTON**

By: \_\_\_\_\_  
Ed Hatley,  
Mayor

ATTEST:

\_\_\_\_\_  
Donna C. Flowers, CMC  
City Clerk

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Airport Agreement as presented.

**Grant Application – Emergency Overdose: Local Mitigation to the Opioid Crisis:**

Maggie Dollar presented information to the Board concerning the Grant Application, which she learned today that the grant was not funded.

**Sole Source Library Purchase of Eight Botley Coding Robot Classroom Sets from Learning Resources for the total cost of \$2399.92:** Jennifer Sackett presented the following:

The Lincoln County Public Library is requesting permission to make a sole source purchase of eight Botley Coding Robot Classroom Sets with funds awarded from the 2018-19 LSTA Homeschool Connections Grant. The Botley Coding Robot Classroom Sets contain everything needed to introduce coding fundamentals to students as young as 5. In addition to building early coding skills, Botley also helps students master logic, critical thinking and other STEM skills.

She asked for the Board's approval of the sole source purchase from Learning Resources in the amount of \$2,399.92.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to Board's approve the sole source purchase from Learning Resources in the amount of \$2,399.92 for eight Botley Coding Robot Classroom sets.

**Approval for Acceptance of MOU and Funds from the Dolly Parton Imagination Library:** Jennifer Sackett presented the following:

The Lincoln County Public Library was awarded a contract with the Partnership for Children of Lincoln And Gaston County and SmartStart to enroll preschool children in the Dolly Parton Library which will allow a specified number of Lincoln County children (ages 0 to 5) in targeted zip codes (28092, 28168, 28033, 28037, and 28080) to receive one free book a month through the mail. This will be the second year that Lincoln County children have been able to participate in the program and the first year that children in 28037 and 28080 zip codes can participate.

She asked for the Board's approval of the Memorandum of Understanding and receipt of funds.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the Memorandum of Understanding and receipt of funds from the Dolly Parton Imagination Library.

**Approval for Sole Source Purchase of Seven Early Literacy and Three AfterSchool Edge Computer Stations from AWE Learning for the Total Amount of \$27,990:** Jennifer Sackett requested approval for sole source purchase of seven Early Literacy and three AfterSchool Edge computer stations from AWE Learning for the total amount of \$27,990 with funds awarded from the 2018-19 LSTA Homeschool Connections Grant.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the sole source purchase of seven Early Literacy and three AfterSchool Edge computer stations from AWE Learning for the total amount of \$27,990.

**Request to Approve Bid to Replace Ceiling Tile and Repaint Ceiling Grid at Jonas**

**Library:** John Henry presented a request to approve a bid with Strickland Construction Company to replace ceiling tiles and repaint the ceiling grid at the Jonas Library.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve bid as presented.

**Budget Ordinance Amendment #2:** Deanna Rios presented Budget Ordinance #2 for the Board's approval.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Budget Ordinance Amendment #2.

**Capital Project Ordinance Amendment #1:** Deanna Rios presented Capital Project Ordinance Amendment #1 for the Board's approval.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve Capital Project Ordinance Amendment #1.

**Grant Project Ordinance #3:** Deanna Rios presented Grant Project Ordinance #3 for the Board's approval.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve Grant Project Ordinance #3.

**Budget Ordinance Amendment #14:** Deanna Rios presented Budget Ordinance Amendment #14 for the Board's approval.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve Budget Ordinance Amendment #14.

**Public Comments:** Chairman Beam opened Public Comments.

Dale Punch thanked the Board for their support of the American Legion Medal of Honor Day and thanked County Manager Atkins for his support of Veterans Services. Mr. Punch said the County should require a driver's license for a golf cart.

Being no additional speakers, Chairman Beam closed Public Comments.

**Finance Officer's Report:** Deanna Rios presented the Finance Officer's Report.

**County Manager's Report:** Mr. Kelly Atkins informed the Board that there will be a work session on November 5, 2018 at 4:30 PM to discuss county office space with the Architect. He will hold Orientation with the Commissioners-elect on November 7, 8 and 9.

**County Attorney's Report:** Nothing reported.

**County Commissioners' Report:**

**Vacancies/Appointments:** None reported.

Commissioner Permenter thanked Breanna Crane for her reporting since this is her last meeting covering Lincoln County for the Denver Citizen.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

Bill Beam, Chairman  
Board of Commissioners