

**TENTATIVE AGENDA & MEETING NOTICE  
BOARD OF COUNTY COMMISSIONERS**

**TUESDAY, OCTOBER 16, 2012  
5:30 P.M.**

**WATAUGA COUNTY ADMINISTRATION BUILDING  
COMMISSIONERS' BOARD ROOM**

TIME	#	TOPIC	PRESENTER	PAGE
5:30	1	CALL REGULAR MEETING TO ORDER		
	2	APPROVAL OF MINUTES: October 2, 2012, Regular Meeting October 2, 2012, Closed Session		1
	3	APPROVAL OF THE OCTOBER 16, 2012 AGENDA		9
5:35	4	PROPOSED PURCHASE AND SALE AGREEMENTS FOR THE OLD WATAUGA HIGH SCHOOL PROPERTY		11
5:40	5	WATAUGA COUNTY TOURISM DEVELOPMENT AUTHORITY'S (TDA) FY 12 ANNUAL REPORT	MR. WRIGHT TILLEY	43
5:45	6	WATAUGA COUNTY LIBRARY UPDATE	MS. MONICA CARUSO	51
5:50	7	FINANCE MATTERS A. Smoky Mountain Center Quarterly Financial Report B. Proposed Inmate Insurance Contract Renewal	MS. MARGARET PIERCE	53 61
5:55	8	PUBLIC COMMENT PERIOD TO ALLOW CITIZEN COMMENT REGARDING A RECENT REQUEST TO RENAME A PORTION OF THE NC 194 SCENIC BYWAY IN VALLE CRUCIS IN HONOR OF MR. ED YATES.	MR. DERON GEOUQUE	65
6:00	9	PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT A. Community Development Block Grant Application for Housing Rehabilitation through the NC Catalyst Program B. Proposed Amendments to the Valle Crucis Historic District Ordinance	MS. MICHELLE BALL MR. JOE FURMAN	73 75
7:00	10	MISCELLANEOUS ADMINISTRATIVE MATTERS A. Recommended Contract Awards for Employee Medical, Dental, and Life Insurance B. Proposed SECU ATM Lease Renewal C. Proposed AT&T Cell Lease D. Discussion of November Meeting Schedule E. Proposed Dates for the County Christmas Luncheon F. Boards and Commissions G. Announcements	MR. DERON GEOUQUE	81 83 89 105 107 109 115
7:05	11	PUBLIC COMMENT		118
8:05	12	BREAK		118
8:10	13	CLOSED SESSION Attorney/Client Matters – G. S. 143-318.11(a)(3)		118
8:30	14	ADJOURN		

**AGENDA ITEM 2:**

**APPROVAL OF MINUTES:**

October 2, 2012, Regular Meeting

October 2, 2012, Closed Session

**DRAFT****MINUTES****WATAUGA COUNTY BOARD OF COMMISSIONERS  
TUESDAY, OCTOBER 2, 2012**

The Watauga County Board of Commissioners held a regular meeting on Tuesday, October 2, 2012, at 8:00 A.M. in the Commissioners' Board Room of the Watauga County Administration Building, Boone, North Carolina.

PRESENT: Nathan Miller, Chairman  
Vince Gable, Vice-Chairman  
David Blust, Commissioner  
Jim Deal, Commissioner  
Tim Futrelle, Commissioner  
Stacy C. Eggers, IV, County Attorney  
Deron Geouque, County Manager  
Anita J. Fogle, Clerk to the Board

Chairman Miller called the meeting to order at 8:09 A.M.

Commissioner Deal opened the meeting with a prayer and Vice-Chairman Gable led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Chairman Miller called for additions and/or corrections to the September 18, 2012, regular meeting and closed session minutes.

Commissioner Blust, seconded by Vice-Chairman Gable, moved to approve the September 18, 2012, regular meeting minutes as presented.

VOTE: Aye-5  
Nay-0

Commissioner Blust, seconded by Vice-Chairman Gable, moved to approve the September 18, 2012, closed session minutes as presented.

VOTE: Aye-5  
Nay-0

**APPROVAL OF AGENDA**

Chairman Miller called for additions and/or corrections to the October 2, 2012, agenda.

County Manager Geouque stated that a second offer to purchase was received for the old high school property and requested to include it as a part of discussion under Item #4.

Commissioner Deal, seconded by Commissioner Blust, moved to approve the October 2, 2012, agenda as amended.

VOTE: Aye-5  
Nay-0

### **PROPOSED PURCHASE AND SALE AGREEMENTS FOR THE OLD WATAUGA HIGH SCHOOL PROPERTY**

Chairman Miller stated that two offers had recently been received to purchase the old high school property currently owned by the County.

County Attorney Eggers stated that both offers would require amendments to meet statutory requirements and reviewed the process by which the properties could be sold. The County Attorney stated that the County could entertain any and all offers; however, if an offer was accepted, a five percent (5%) deposit had to be submitted to the Clerk to the Board. At a time when and if an offer was accepted the upset bid process would begin. The upset bid process includes advertising a Notice of Sale By Upset Bid in which a ten (10) day period is given to allow for upset bids to be received by the County. An upset bid would raise the bid amount (by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder) and meet the terms of the accepted offer. An additional ten (10) day upset bid period would be advertised until a time when no further qualifying upset bids were received. At that time, the highest qualifying bid would be presented to the Board. Throughout the process, the Board could accept or reject any and all bids.

Campus Crest Development, LLC, submitted an offer to purchase the County-owned, old high school property for \$15,000,000. Mr. Rick Miller, listed as the buyer's agent, requested a 10% commission. Campus Crest Development, LLC has requested a one hundred eighty (180) day inspection period of the property.

Mr. Miller stated that Campus Crest, a publically traded company, was willing to meet all statutory requirements regarding their offer. If purchased, the construction of a mixed use development including 250-500 residential units was planned. The proposal was not contingent upon financing and, if purchased, it was the intent to immediately begin developing the property upon issuance of all required permits. Mr. Miller stated that the amount of water reserved by the Town of Boone for the property exceeded the amount needed for their proposed development. Mr. Miller also stated that Campus Crest was aware that the County could not guarantee that traffic lights be reinstalled at the intersection of NC Hwy 105 and High School Drive as requested in the proposed offer.

Place Acquisitions, LLC, submitted an offer to purchase the County-owned, old high school property for \$15,500,000. Mr. Tim Hagaman, listed as the seller's agent, requested a six percent (6%) commission. Place Acquisitions also requested a one hundred eighty (180) day inspection period of the property.

Mr. Tony di Santi, Legal Counsel for Place Acquisition, LLC, a joint venture of Mr. Phillip Clark and Mr. Cecil Phillips, stated that Place Acquisition was willing to meet all statutory requirements regarding their offer as well. If purchased, the construction of a “Living Destination Community,” including mixed use and residential units, was planned. Even though a private development, Place Acquisition intended to include input from the Town of Boone and Appalachian State University as a part of their plan by potentially incorporating classroom space and possibly a conference center into their design.

Discussion was held regarding the two offers including the proposed purchase prices and contracts as well as the realtor’s agreements and proposed commissions. During discussions, Commissioner Deal stated that he preferred a purchase price amount of \$20,000,000. Vice-Chairman Gable and Chairman Miller both stated that they would like to see a proposed purchase price of at least \$16,500,000. The County Manager stated that the current Notice of Sale for the property designated that any realtor’s commission be split if the property was sold, as a part of the upset bid process, through an agent other than the agent who submitted the originally accepted offer. Also, Mr. Hagaman’s agreement had him listed as the seller’s agent. Since the Board had not intended to use a seller’s agent, Mr. Hagaman could amend his agreement to list him as the Buyer’s agent.

After discussion, the County Attorney stated that the Board could: direct him to work with counsel representing both offers to ensure that the offers met statutory requirements; accept or reject any or all of the offers as submitted; or send the offers back and request they be resubmitted.

After further discussion regarding the possibility of having the current offers resubmitted at the October 16, 2012, Board meeting, Vice-Chairman Gable, seconded by Commissioner Blust, moved to direct the County Attorney to work with those who make or resubmit offers to purchase the County-owned old high school property to meet the threshold purchase price of \$16,500,000 and include standardized language ensuring that all statutory requirements are met.

VOTE: Aye-5

Nay-0

After further discussion regarding the realtor’s roles throughout the process, Commissioner Deal, seconded by Commissioner Blust, moved to recognize Mr. Rick Miller as the buyer agent associated with Campus Crest Development, LLC, and Mr. Tim Hagaman as the buyer agent associated with Place Acquisition, LLC.

VOTE: Aye-5

Nay-0

## **TAX MATTERS**

### ***A. Monthly Collections Report***

Interim Tax Administrator Larry Warren presented the Tax Collections Report for the month of September 2012. This report was presented for information only and, therefore, no action was required.

**B. Refunds and Releases**

Mr. Warren presented the following Refunds and Releases for September 2012 for Board approval:

TO BE TYPED IN MINUTE BOOK

Commissioner Deal, seconded by Vice-Chairman Gable, moved to approve the Refunds and Releases Report for September 2012, as presented.

VOTE: Aye-5  
Nay-0

**BUDGET AMENDMENTS**

Ms. Margaret Pierce, Finance Director, reviewed the following budget amendments:

Account #	Description	Debit	Credit
103586-332006	Senior Health Insurance Information Grant		\$6,328
105550-449901	SHIIP Program Supplies	\$6,328	

The amendment recognized a grant award for the Senior Health Insurance Information Program (SHIIP) from the NC Department of Insurance. No match was required.

Account #	Description	Debit	Credit
103586-332004	Senior Center Grant		\$15,670
105550-449900	Senior Center Grant	\$15,670	

The amendment recognized a grant award for Senior Center general purpose funding from the State. A County match of \$5,224 was present in the Project on Aging's FY 2013 budget. The award and match were approved at the September 18, 2012, Board meeting.

Account #	Description	Debit	Credit
103586-385505	Self-Supporting Class Fees		\$14,000
105550-469515	Self-Supporting Class	\$14,000	

The amendment recognized estimated revenue for Youth Services from State fund through a fully reimbursed Department of Social Services program.

Account #	Description	Debit	Credit
103300-345000	ROAP Transportation Grant		\$102,569
104500-469843	AppalCART – RGP	\$60,580	
104500-469844	Employment	\$10,511	
105550-431301	POA-E&D	\$22,739	
104500-469846	Watauga Opportunities – E&D	\$8,739	
143300-345000	E&D Transportation Grant		\$22,846
145310-469845	E&D Transportation Grant	\$22,846	

The amendment recognized the award of the NC Public Transportation Division FY 2013 Rural Operating Assistance Program (ROAP) grant funds.

Account #	Description	Debit	Credit
103586-332003	POA In Home Services	\$2,910	
105550-429200	Program Supplies		\$2,910
143531-323000	Admin Cost Reimbursements	\$2,910	
145310-439902	Purchased Services		\$2,910

The amendment recognized a reduction in a funding allocation from the State for In Home Services provided to Department of Social Services clients by POA programs and staff.

Commissioner Futrelle, seconded by Commissioner Blust, moved to approve the budget amendments as presented.

VOTE: Aye-5  
Nay-0

### **MISCELLANEOUS ADMINISTRATIVE MATTERS**

#### ***A. Proposed Resolution for Blue Star Memorial Highway Designation***

County Manager Geouque presented a proposed resolution designating Highway 421 from the Wilkes County line to the Tennessee State line as a Blue Star Memorial Highway to honor all veterans and service men and women who have or will serve in the United States Armed Forces. The County Manager stated that Mr. Sam Halsey, Division 11 Representative with the North Carolina Board of Transportation, had requested the Board's consideration of the resolution.

Commissioner Deal, seconded by Vice-Chairman Gable, moved to adopt the resolution as presented.

VOTE: Aye-5  
Nay-0

#### ***B. Boards and Commissions***

County Manager Geouque stated that AppalCART had submitted the following nominations for appointments to their Board of Directors: Mr. John Dinkins as the user representative and Ms. Elaine Norris as the Human Service Agency Representative.

Commissioner Blust, seconded by Commissioner Deal, moved to appoint Mr. John Dinkins, as the user representative, and Ms. Elaine Norris, as the Human Service Agency Representative, to the Board of Directors of AppalCART.

VOTE: Aye-5  
Nay-0

County Manager Geouque stated that Mr. Allen Culler's term on the Valle Crucis Historic Preservation Commission (VCHPC) expired in September and he is willing to be reappointed for an additional three-year term. The County Manager explained that the VCHPC is involved in the issuance of "Certificates of Appropriateness" pursuant to the Valle Crucis Historic District

Ordinance. The Commission's membership includes 3 residents of the historic district and 2 residents of the Valle Crucis community who are also members of the elected Valle Crucis Community Council. Mr. Culler's seat was one of the 2 Community Council member seats.

Commissioner Deal, seconded by Commissioner Futrelle, moved to reappoint Mr. Allen Culler to Valle Crucis Historic Preservation Commission for a three-year term.

VOTE: Aye-5  
Nay-0

County Manager Geouque stated that Ms. Janet Miller's term on the Watauga County Board of Adjustment expires in November and she is willing to be reappointed for an additional three-year term. Ms. Miller is an at-large member and at-large members fill 2 of the 6 seats on the Board. The other 4 are filled by representatives of the zoned and watershed areas in the county.

Chairman Miller stated that an additional Volunteer Application had been submitted by Mr. Adam Rhyne who also was interested and willing to serve as an At-Large member of the Watauga County Board of Adjustments.

An appointment to the Board of Adjustment was tabled until a future meeting.

### ***C. Announcements***

County Manager Geouque announced the following:

- High Country Recreation will host a presentation on Tuesday, October 2, 2012, from 5:30 P.M. to 7:00 P.M., in the Watauga Medical Center auditorium, conducted by Mr. Bob Conklin, CEO/President for the YMCA of Catawba Valley. The presentation will focus on how a YMCA provides year-round recreational opportunities and additional child care options for working parents.
- A joint meeting is scheduled with the Watauga County Economic Development Commission to discuss potential use of the old high school property on Monday, October 8, 2012, from 4:30 P.M. until 6:00 P.M. in the Commissioners' Board Room.
- An Interlocal Governmental Retreat is scheduled for Thursday October 11, 2012, from 5:00 P.M. to 7:00 P.M. at the ASU Athletics Center. Craig Hughes with High Country Council of Governments and NCDOT planning staff will make presentations. Discussion will also be held regarding consolidated dispatch.
- Two public hearings are scheduled for the Tuesday, October 16, 2012, Board meeting. The hearings will allow public comment regarding proposed amendments to the Valle Crucis Historic District Ordinance and the submission of an application for the Community Development Block Grant NC Catalyst Program of which funds, if received, will be used for the rehabilitation of local homes.



- A public comment period will also be placed on the October 16<sup>th</sup> agenda to hear comments regarding a recent request to rename a portion of the NC 194 Scenic Byway in Valle Crucis in honor of Mr. Ed Yates.

**PUBLIC COMMENT**

Dr. Carrie Bush, ASU Associate Professor, introduced a group of students in attendance from a State and Local Government Class with the ASU Department of Government and Justice.

**CLOSED SESSION**

At 9:09 A.M., Commissioner Blust, seconded by Commissioner Futrelle, moved to enter Closed Session to discuss Attorney/Client Matters, per G. S. 143-318.11(a)(3).

VOTE: Aye-5  
Nay-0

Commissioner Blust, seconded by Commissioner Futrelle, moved to resume the open meeting at 9:32 A.M.

VOTE: Aye-5  
Nay-0

**ADJOURN**

Commissioner Deal, seconded by Commissioner Blust, moved to adjourn the meeting at 9:32 A.M.

\_\_\_\_\_  
Nathan A. Miller, Chairman

ATTEST:

\_\_\_\_\_  
Anita J. Fogle, Clerk to the Board

**AGENDA ITEM 3:**

**APPROVAL OF THE OCTOBER 16, 2012, AGENDA**

Blank Page

**AGENDA ITEM 4:****PROPOSED PURCHASE AND SALE AGREEMENTS FOR THE OLD WATAUGA HIGH SCHOOL PROPERTY****MANAGER'S COMMENTS:**

The County is anticipating two offers based on the last Board meeting and the County Attorney's follow up discussions with potential buyers. Direction was given to the two potential bidders to submit their proposed contracts minus the offer price by Tuesday, October 9, 2012, to be included in the Board's packet for consideration and County Attorney review. At present time, Rick Miller, representing Campus Crest Development, LLC, has submitted a contract minus the offer price. Should any additional contracts come in prior to the Tuesday meeting, staff will provide to the Board as soon as possible. Enclosed is a copy of the fee agreement from Tim Hagaman, Hagaman Realty and representing Place Acquisition, has submitted his fee agreement.

If the Board receives a favorable offer you may accept, counter, or reject the offer. Should the Board wish to accept the offer, the buyer would be required to deposit 5% of the purchase amount with the County. The County would be required to publish a notice of the offer, in which the notice would state that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. The process would continue until there are no longer any upset bids. Throughout the process, the County may reject any and all bids.

One additional item the Board will need to address is the commission that will be paid to the successful realtor(s). The current stipulation regarding the commission is that the County will pay to a North Carolina licensed real estate agent who presents an offer to purchase which is accepted by the County, a commission of five percent (5%) of the purchase price at the time of closing of the sale. The offer, if accepted, will then be subjected to the advertisement and upset bid process as provided by NCGS § 160A 269. In the event that the accepted offer is upset through the advertisement and bid process and the property is sold to a party other than the party who made the initial accepted offer, and the upset bid party which closes on the purchase at the upset bid price is represented by another North Carolina licensed real estate agent, the County will pay a commission of five percent (5%) of the purchase price at the time of closing of the sale, which commission will be divided equally between the real estate agent who presented the initial accepted offer and the real estate agent for the upset bid purchaser. The payment of the commission is contingent upon the closing of the sale of the property by the County. There has been discussion to allow for the full commission to be awarded to the realtor who provides the final offer accepted and vetted through the upset bid process. Should the Board wish to pursue this route a motion would be required to rescind the current split of the commission and that the full determined commission rate (5%, 6%, 10%) would be awarded to the successful realtor upon completion of the upset bid process and closing of the property.

Staff seeks direction from the Board on accepting.



DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE

North Carolina Association of REALTORS® Watauga County, a North Carolina corporate body politic chartered by the state of

This Agreement is entered into by and between: North Carolina ("Seller"), and Miller Properties, Inc. ("Firm"). (Name of Firm)

RECITALS:

A. Seller is the owner of the property commonly known as:

400 High School Dr., Boone NC 28607,

Also see Exhibit A attached hereto ("Property").

B. Firm has advised Seller of Firm's general company policy regarding agency. Seller has received and read the North Carolina Real Estate Commission's "Working with Real Estate Agents" publication (NCAR Standard Form 520) and understands that Firm will be acting as:

- a Seller's Agent
a Buyer's Agent

with respect to: Campus Crest Development, LLC and or any other party the principals of which are affiliated with Campus Crest Group, LLC ("Buyer") who would like to see the Property.

any prospect Firm registers with Seller as evidenced by a registration document (either a CONFIRMATION OF AGENCY RELATIONSHIP AND REGISTRATION STATEMENT - NCAR Form 510 or substantially similar registration document) provided by Firm to Seller prior to showing the Property. For the purposes of this Agreement, any such registered prospect is referred to as "Buyer".

Accordingly, the parties agree as follows:

1. FEE. When Seller accepts an unconditional offer from Buyer or when all conditions have been met following the Seller's acceptance of a conditional offer from Buyer, then Seller shall pay Firm a fee equal to Ten Point Zero percent ( 10.000 %) of the gross sales price of the Property, or the sum of (\$ ), whichever is greater.

Seller shall pay the fee to Firm in cash or by bank check. Gross sales price includes any and all consideration received or receivable, in whatever form, by Seller including, but not limited to, the assumption or release of existing liabilities. Seller shall pay the fee upon delivery of the deed or other evidence of transfer of title or interest; provided, however, if the transaction involves an installment contract, then Seller shall pay the fee upon the signing of such installment contract. In the event of any breach by Seller, Seller's successors or assigns, of any contract of purchase and sale, it is understood and agreed that the fee remains earned and payable upon notice given by Seller to Buyer of Seller's intent not to proceed with such sale, notwithstanding the basis of such intent not to proceed. In the event Seller contributes or conveys the Property or any interest therein to a joint venture, partnership or other business entity or executes an exchange, the fee shall be calculated on the fair market value of the Property or interest therein contributed, conveyed, transferred or exchanged and is payable at the time of the contribution, conveyance, transfer or exchange. If Seller is a partnership, corporation or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a fee or commission in connection with such sale or transfer, the fee shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid by Seller at the time of the transfer.



North Carolina Association of REALTORS®, Inc.

Seller Initials Firm Rep. Initials



STANDARD FORM 573 Revised 7/2011 © 7/2012

2. **TERM:** This Agreement shall be effective for a period extending until midnight on October 17, 2013. If, within 365 days after the expiration of this agreement, Seller directly or indirectly sells or agrees to sell the Property to Buyer, then Seller shall pay Firm the same commission to which it would have been entitled had the sale been made during the term of this agreement.

3. **LEASE PROTECTION PROVISION.** In the event that the Property is leased to Buyer during the term hereof, it is acknowledged that a commission shall be nonetheless earned by Firm upon execution of such lease agreement. The parties agree to act in good faith in determining that the commission is an amount reasonable in this area for the type of Property.

4. **PARTIES AND BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives. Seller agrees that at any time during the term of this Agreement, Firm may either assign Firm's rights and responsibilities hereunder to another real estate agency, or transfer to another person or entity all or part of the ownership of Firm's real estate agency, and that in the event of any such assignment or transfer, this Agreement shall continue in full force and effect; provided, that any assignee or transferee must be licensed to engage in the business of real estate brokerage in the State of North Carolina. In the event of any such assignment or transfer, Seller may terminate this Agreement without cause on thirty (30) days' prior written notice to the assignee or transferee of Seller's intent to terminate this Agreement.

**THE AGENT SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY TO THE AGREEMENT. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OF ANY PARTY OR PROSPECTIVE PARTY TO THIS AGREEMENT.**

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

**SELLER:**

**FIRM:**

**Individual:**

Miller Properties, Inc.

(Name of Firm)

\_\_\_\_\_(SEAL)

By: [Signature] (SEAL)

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

Name: Rick Miller

\_\_\_\_\_(SEAL)

Individual license #: 112051

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

Date: September 21, 2012

**Business Entity** Watauga County, a North Carolina corporate body politic chartered by the state of North Carolina

Address: P.O. Box 3018

(Name of Entity)

Boone, NC 28607

By: \_\_\_\_\_ (SEAL)

Phone: (828) 262-3830

Name: Nathan A. Miller

Facsimile: (828) 262-1832

Title: Chairman of the Watauga County Board of county commissioners

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

E-mail: mpi@bellsouth.net

Address: 814 West King Street Suite 205  
Boone, NC 28607

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

EXHIBIT A  
DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE  
BY AND BETWEEN  
MILLER PROPERTIES, INC., BUYER'S AGENT AND  
WATAUGA COUNTY, A NORTH CAROLINA BODY POLITIC CHARTERED BY  
THE STATE OF NORTH CAROLINA AS SELLER

Parcel ID numbers: 2910-02-7724-000, 2910-03-2114-000, 2910-13-4202-000, 2910-13-0228-000, 2910-01-5763-000, 2910-11-0378-000, 2900-92-7413-000, and Bk1353 Pg115, Bk1084 Pg728 and Bk1084 Pg732, as recorded in Watauga County. Also including all improvements and all appurtenant equipment.

Seller Initials \_\_\_\_\_

Firm Rep. Initials ALL



DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE

North Carolina Association of REALTORS® Watauga County, a North Carolina corporate body politic chartered by the state of

This Agreement is entered into by and between: North Carolina ("Seller"), and Miller Properties, Inc. ("Firm"). (Name of Firm)

RECITALS:

A. Seller is the owner of the property commonly known as:

400 High School Dr., Boone NC 28607,

Also see Exhibit A attached hereto ("Property").

B. Firm has advised Seller of Firm's general company policy regarding agency. Seller has received and read the North Carolina Real Estate Commission's "Working with Real Estate Agents" publication (NCAR Standard Form 520) and understands that Firm will be acting as:

- checkbox a Seller's Agent
checkbox a Buyer's Agent

with respect to: Campus Crest Development, LLC and or any other party the principals of which are affiliated with Campus Crest Group, LLC. ("Buyer") who would like to see the Property.

checkbox any prospect Firm registers with Seller as evidenced by a registration document (either a CONFIRMATION OF AGENCY RELATIONSHIP AND REGISTRATION STATEMENT - NCAR Form 510 or substantially similar registration document) provided by Firm to Seller prior to showing the Property. For the purposes of this Agreement, any such registered prospect is referred to as "Buyer".

Accordingly, the parties agree as follows:

1. FEE. When Seller accepts an unconditional offer from Buyer or when all conditions have been met following the Seller's acceptance of a conditional offer from Buyer, then Seller shall pay Firm a fee equal to Ten Point Zero percent ( 10.000 %) of the gross sales price of the Property, or the sum of Also see Exhibit B attached hereto. (\$ ), whichever is greater.

Seller shall pay the fee to Firm in cash or by bank check. Gross sales price includes any and all consideration received or receivable, in whatever form, by Seller including, but not limited to, the assumption or release of existing liabilities. Seller shall pay the fee upon delivery of the deed or other evidence of transfer of title or interest; provided, however, if the transaction involves an installment contract, then Seller shall pay the fee upon the signing of such installment contract. In the event of any breach by Seller, Seller's successors or assigns, of any contract of purchase and sale, it is understood and agreed that the fee remains earned and payable upon notice given by Seller to Buyer of Seller's intent not to proceed with such sale, notwithstanding the basis of such intent not to proceed. In the event Seller contributes or conveys the Property or any interest therein to a joint venture, partnership or other business entity or executes an exchange, the fee shall be calculated on the fair market value of the Property or interest therein contributed, conveyed, transferred or exchanged and is payable at the time of the contribution, conveyance, transfer or exchange. If Seller is a partnership, corporation or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a fee or commission in connection with such sale or transfer, the fee shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid by Seller at the time of the transfer.



North Carolina Association of REALTORS®, Inc.

Seller Initials Firm Rep. Initials



STANDARD FORM 573 Revised 7/2011 © 7/2012



2. **TERM:** This Agreement shall be effective for a period extending until midnight on October 17, 2013. If, within 365 days after the expiration of this agreement, Seller directly or indirectly sells or agrees to sell the Property to Buyer, then Seller shall pay Firm the same commission to which it would have been entitled had the sale been made during the term of this agreement.

3. **LEASE PROTECTION PROVISION.** In the event that the Property is leased to Buyer during the term hereof, it is acknowledged that a commission shall be nonetheless earned by Firm upon execution of such lease agreement. The parties agree to act in good faith in determining that the commission is an amount reasonable in this area for the type of Property.

4. **PARTIES AND BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives. Seller agrees that at any time during the term of this Agreement, Firm may either assign Firm's rights and responsibilities hereunder to another real estate agency, or transfer to another person or entity all or part of the ownership of Firm's real estate agency, and that in the event of any such assignment or transfer, this Agreement shall continue in full force and effect; provided, that any assignee or transferee must be licensed to engage in the business of real estate brokerage in the State of North Carolina. In the event of any such assignment or transfer, Seller may terminate this Agreement without cause on thirty (30) days' prior written notice to the assignee or transferee of Seller's intent to terminate this Agreement.

**THE AGENT SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY TO THE AGREEMENT. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OF ANY PARTY OR PROSPECTIVE PARTY TO THIS AGREEMENT.**

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

**SELLER:**

Individual:

\_\_\_\_\_(SEAL)

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

\_\_\_\_\_(SEAL)

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

**FIRM:**

Miller Properties, Inc.  
(Name of Firm)

By: [Signature] (SEAL)

Name: Rick Miller

Individual license #: 112051

Date: September 21, 2012

**Business Entity** Watauga County, a North Carolina corporate body politic chartered by the state of North Carolina

(Name of Entity)

By: \_\_\_\_\_ (SEAL)

Name: Nathan A. Miller

Title: Chairman of the Watauga County Board of county commissioners

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

Address: 814 West King Street Suite 205

Boone, NC 28607

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

Address: P.O. Box 3018

Boone, NC 28607

Phone: (828) 262-3830

Facsimile: (828) 262-1832

E-mail: mpi@bellsouth.net

EXHIBIT A  
DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE  
BY AND BETWEEN  
MILLER PROPERTIES, INC., BUYER'S AGENT AND  
WATAUGA COUNTY, A NORTH CAROLINA BODY POLITIC CHARTERED BY  
THE STATE OF NORTH CAROLINA AS SELLER

Parcel ID numbers: 2910-02-7724-000, 2910-03-2114-000, 2910-13-4202-000, 2910-13-0228-000, 2910-01-5763-000, 2910-11-0378-000, 2900-92-7413-000, and Bk1353 Pg115, Bk1084 Pg728 and Bk1084 Pg732, as recorded in Watauga County. Also including all improvements and all appurtenant equipment.

Seller Initials \_\_\_\_\_

Firm Rep. Initials RL

EXHIBIT B  
DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY  
SALE BY AND BETWEEN  
MILLER PROPERTIES, INC., BUYER'S AGENT AND  
WATAUGA COUNTY, A NORTH CAROLINA BODY POLITIC CHARTERED  
BY THE STATE OF NORTH CAROLINA AS SELLER

Notwithstanding anything contained in the terms of the fee agreement and compensation to be paid to Buyer's Agent in the attached contract, the commission to be paid to Buyer's Agent is subject to the following condition:

In the event an offer is submitted which the Watauga County Board of Commissioners proposes to accept, Watauga County will pay to the Agent the sum set forth in the contract upon the final closing and transfer of the property to Buyer. In accordance with N.C. Gen. Stat. §160A-269, Watauga County shall advertise the property for upset bids in accordance with the statutory requirements. In the event that the accepted offer is upset through the advertisement and bid process of N.C. Gen. Stat. §160A-269, and the property is sold to a party other than the party who made the initial accepted offer, and the upset bid party which closes on the purchase at the upset bid price is represented by another real estate agent licensed in North Carolina, the Agent agrees that the commission will be divided equally between the real estate agent who presented the initial offer and the real estate agent for the upset bid purchaser.

If the Agent set forth in this agreement is not the agent representing the initial purchaser, but instead represents the high bidder at the end of the upset bid process, the amount of commission set forth in Paragraph One of this contract shall be altered to equal the percentage of the commission agreed to for the Agent's Compensation as provided in the underlying offer the Commissioners initially proposed to accept, and that amount shall be the amount divided equally between the real estate agent who presented the initial offer and the real estate agent for the upset bid purchaser as provided above.

The payment of any commission is contingent upon the closing of the sale of the property by Watauga County.

Seller Initials \_\_\_\_\_

Firm Rep. Initials PLM

**PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement (this "Agreement") is made this \_\_\_\_ day of October, 2012, by and between **Watauga County**, a North Carolina corporate and body politic chartered by the State of North Carolina ("Seller"), and **Campus Crest Development, LLC**, a North Carolina limited liability company ("Purchaser").

**Recitals**

A. Seller is the owner of that certain parcel of real property consisting of approximately 74.641 acres, located at 400 High School Drive on NC Highway 105 and Wilson Drive, in Boone, Watauga County, North Carolina, which is more particularly described or depicted on Exhibit A attached hereto and made a part hereof (the "Property").

B. Purchaser desires to purchase the Property, and Seller desires to sell the Property pursuant to the terms and conditions of this Agreement.

**Agreement**

**NOW, THEREFORE**, in consideration of the above Recitals and other good and valuable consideration, including the mutual covenants and promises herein contained, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

**1. PROPERTY.** Seller agrees to sell and Purchaser agrees to buy the Property, together with all easements, rights of way, privileges, appurtenances and other rights pertaining thereto. The final legal description for the Property shall be as set forth on the Survey (as defined in Section 5(a)).

**2. PURCHASE PRICE.** The purchase price for the Property shall be \$ \_\_\_\_\_ (the "Purchase Price"), to be paid as hereinafter provided.

**3. EARNEST MONEY.**

a. On or before the close of business on the Friday after any meeting of Seller's Board of County Commissioners at which the terms of this Agreement are approved and accepted by Seller, Purchaser will deposit with the Clerk to the Board of the Watauga County Commissioners (the "Escrow Agent") a check payable to the Board of the Watauga County Commissioners or wired funds in the amount of \_\_\_\_\_ and No/100 Dollars (\$ \_\_\_\_\_), which represents 5% of the Purchase Price hereunder. The deposit and interest thereon, if any, shall be defined as the "Earnest Money."

b. Upon collection of the Earnest Money hereunder, such funds are to be held in an interest-bearing account and disbursed by the Escrow Agent in accordance with the terms of this Agreement. Prior to opening such investment, in addition to the funds being collected, the Purchaser, as depositor, will furnish the forms required to open the investment (an executed Form W-9 and INSTRUCTION FOR INVESTMENT OF ESCROW FUNDS). The parties

43 acknowledge that the Earnest Money will be invested in such investments as are available to the  
44 Watauga County Finance Officer and as the parties mutually agree.

45 c. The Earnest Money shall be applied to the Purchase Price to be paid by Purchaser  
46 at Closing, as hereinafter defined, or disbursed as otherwise provided herein. In this regard the  
47 Purchaser's tax identification number is 80-0100179.

48 **4. INSPECTION PERIOD.** Purchaser, its employees, agents and designees, shall have the  
49 right to inspect the Property for \_\_\_\_\_ (\_\_\_\_\_) days from the date on which  
50 this Agreement is deemed fully executed by the parties hereto (the "Effective Date") (as such  
51 period may be extended as provided for hereunder, the "Inspection Period"). Within ten (10)  
52 days following the Effective Date (the "Seller's Documents Delivery Date"), Seller shall deliver  
53 to Purchaser those items listed on Exhibit B attached hereto and made a part hereof, which Seller  
54 has in its possession or which it may be able to reasonably obtain (the "Existing Due Diligence").  
55 Seller acknowledges that the Existing Due Diligence is critical to Purchaser's inspection of the  
56 Property, and as a result, the Inspection Period will be extended automatically one day for each  
57 day that the delivery of the Existing Due Diligence is delayed past the Seller's Documents  
58 Delivery Date. The Purchaser may elect not to buy the Property for any reason at all or for no  
59 reason during the Inspection Period by providing Seller with written notice of its intention not to  
60 purchase the Property prior to the end of the Inspection Period. If Purchaser so elects not to  
61 purchase the Property, then the Escrow Agent shall, upon written demand by Purchaser (with a  
62 copy going to Seller), refund the Earnest Money to the Purchaser within five (5) business days of  
63 receipt by Escrow Agent of said written demand. During the term of this Agreement:

64  
65 a. Purchaser, its employees, agents and designees, shall have the right of ingress and  
66 egress over and through the Property during normal business hours to perform any work deemed  
67 necessary by Purchaser to evaluate the Property.

68  
69 b. Purchaser shall indemnify and hold Seller harmless from any liability arising out  
70 of the entry of Purchaser and/or Purchaser's agents or technical advisors on the Property prior to  
71 Closing.

72  
73 c. Seller shall cooperate with Purchaser by responding, to the best of Seller's  
74 knowledge, to all questions and inquiries made by Purchaser relating to the Property, by  
75 obtaining all documents that are reasonably necessary for Purchaser to evaluate the use of the  
76 Property for student housing apartments, and by instructing its agents and advisors to disclose  
77 any information they may have pertaining to the Property. Seller agrees to provide to Purchaser  
78 within ten (10) days of a request therefor any affidavits or letters executed by Seller that may be  
79 reasonably required by the applicable governmental authorities to authorize Purchaser and its  
80 agents to sign and execute on behalf of Seller any documents necessary for the rezoning,  
81 replatting and/or development of the Property. The obligation of the Seller in the foregoing  
82 sentence shall survive Closing and the delivery of the Deed (as defined herein).

83  
84 d. Purchaser shall have the right to extend the Inspection Period for one sixty (60)-  
85 day period by giving written notice thereof to Seller prior to the end of the Inspection Period,  
86 solely to enable Purchaser to (i) obtain from the Town of Boone a site-specific development plan  
87 for the Property, as such term is defined by the North Carolina General Statutes, (ii) obtain such  
88 other approvals and permits as may be required by applicable governmental authorities as a

89 condition to Purchaser's proceeding with the development of the Property and (iii) complete  
 90 Purchaser's inspections and examinations of the Property. If Purchaser does not terminate this  
 91 Agreement before the end of the Inspection Period (as the same may be extended), all Earnest  
 92 Money deposited by Purchaser shall be nonrefundable except as provided in Sections 5(b), 13(a)  
 93 and 14. Purchaser shall have the right to extend the Inspection Period for one additional thirty  
 94 (30)-day period by giving written notice thereof to Seller, solely to enable Purchaser to address  
 95 the matters described in subsections (i), (ii) and (iii) of this subparagraph (d). Notwithstanding  
 96 such extension of the Inspection Period, if elected by Purchaser, the Earnest Money will continue  
 97 to be nonrefundable except as provided in Sections 5(b), 13(a) and 14.

98  
 99 e. It is understood and agreed between the parties that Purchaser, during the  
 100 Inspection Period, may apply to the Town of Boone or other appropriate governmental  
 101 agency(ies) for a rezoning designation for the Property and any special use permits, land  
 102 disturbance and building permits, department of transportation permits and other approvals and  
 103 permits that may be required in order for Purchaser to develop the Property for Purchaser's  
 104 intended use. In connection with all applications for rezoning and such permits and approvals,  
 105 the existence of this Agreement may be disclosed as required by the governing authorities.  
 106 Purchaser shall have the sole and exclusive right to modify, amend, defer or withdraw any and  
 107 all applications as it sees fit in its sole discretion. Seller agrees to cooperate with Purchaser in  
 108 executing applications for public hearings, permits or other approvals as deemed reasonably  
 109 necessary by Purchaser or the appropriate governmental agencies in order to obtain the requisite  
 110 rezoning and other permit approvals. The parties acknowledge that all zoning applications may  
 111 be filed in the name of Seller but shall be at the expense of Purchaser.

## 112 **5. TITLE AND SURVEY.**

113  
 114  
 115 a. Purchaser shall obtain (i) a title insurance commitment for the Property (the "Title  
 116 Commitment") issued by First American Title Insurance Company or another title company  
 117 acceptable to Purchaser (the "Title Company") in the amount of the Purchase Price, committing  
 118 to insure Purchaser against loss on account of any defect or encumbrance in the title, unless  
 119 herein excepted and (ii) an ALTA survey of the Property, certified to Purchaser, the Title  
 120 Company and Purchaser's lender (the "Lender") in accordance with the Lender's survey  
 121 requirements (the "Survey").

122  
 123 b. The Property is being sold and is to be conveyed subject to any specific matters  
 124 set forth in the Title Commitment unless written objections of the same (the "Title Objections")  
 125 are delivered to Seller during the Inspection Period. Seller shall have until the end of the  
 126 Inspection Period or twenty (20) days, whichever is longer, to either cure the Title Objections or  
 127 notify Purchaser of which Title Objections Seller will not cure. Any matters reflected in the Title  
 128 Commitment and Survey that are not timely objected to during the Inspection Period shall be  
 129 deemed "Permitted Exceptions." Should Seller notify Purchaser that Seller will not cure any  
 130 timely made Title Objections or should Seller fail to timely cure any timely made Title  
 131 Objections, Purchaser shall have the right to (i) accept said uncured Title Objections and close on  
 132 the Property, in which case said uncured Title Objections shall be "Permitted Exceptions" or (ii)  
 133 terminate this Agreement upon written notice to Seller prior to Closing and receive a full refund  
 134 of the Earnest Money within five (5) business days of receipt by Escrow Agent of said written  
 135 notice.

136 **6. CONVEYANCE.** Seller agrees to convey to Purchaser fee simple marketable title to the  
 137 Property, together with all easements, rights of way, privileges, appurtenances and other rights  
 138 pertaining thereto, by general warranty deed subject only to the Permitted Exceptions (the  
 139 "Deed").

140  
 141 **7. CONDITIONS PRECEDENT TO CLOSING.** The obligations of Purchaser and  
 142 Seller under this Agreement are subject to all covenants, agreements, actions, proceedings,  
 143 instruments and documents required pursuant to this Agreement having been performed,  
 144 complied with or delivered (as the case may be) in accordance with this Agreement.

145 **8. CLOSING.** The closing of the sale and purchase of the Property (the "Closing") shall  
 146 take place at such location as both parties shall reasonably agree sixty (60) days after the end of  
 147 the Inspection Period, or at such other date as may be reasonably agreed upon by the parties  
 148 hereto in writing (the "Closing Date"). Purchaser shall have the right to extend the Closing Date  
 149 for two thirty (30)-day periods by giving written notice thereof to Seller.

150  
 151 **9. DELIVERIES AT CLOSING.** At the Closing, Seller shall deliver those certain items  
 152 listed on Exhibit C. At the Closing, Purchaser shall deliver a closing statement executed by  
 153 Purchaser, any documents reasonably required of it from the Title Company in order to close,  
 154 and the funds due from Purchaser pursuant to said closing statement.

155  
 156 **10. COSTS AND FEES.** Seller shall be responsible for the payment of all recording taxes,  
 157 documentary stamps and other charges for recording the Deed, and any other costs customarily  
 158 borne by a seller in commercial real estate transactions in the county where the Property is  
 159 located. Purchaser shall be responsible for the title insurance premium for Purchaser's owner's  
 160 title insurance policy (and the title search and abstract fees associated with said title insurance  
 161 policy), the cost of the Survey, any other third party reports obtained by Purchaser, any closing  
 162 or escrow fee charged by the Title Company, and any other costs customarily borne by a  
 163 purchaser in commercial real estate transactions in the county where the Property is located.  
 164 Seller and Purchaser shall each pay its respective costs for its own attorneys' fees for services  
 165 related to the negotiation and preparation of this Agreement and the sale and purchase of the  
 166 Property.

167  
 168 **11. AD VALOREM TAXES.** Ad valorem taxes and assessments, if any, for the tax year in  
 169 which the Closing occurs are to be prorated (on the basis of a 365-day year) as of the date of  
 170 Closing on the basis of the tax assessment for the tax year in which Closing occurs. If the  
 171 Closing shall occur before the tax assessment for the current tax year shall be established, the tax  
 172 assessment for the preceding tax year shall be used for such proration at Closing. Should the tax  
 173 assessment for the current tax year once known differ by greater than ten percent (10%) from the  
 174 tax assessment used for such proration at Closing, either Seller or Purchaser may demand and  
 175 shall be entitled to receive on demand a payment from the other correcting such proration within  
 176 ninety (90) days of the date in which such taxes are known.

177  
 178 In the event the tax parcel(s) in which the Property is located contains any additional  
 179 property as of the Closing Date, Seller and Purchaser agree to enter into a tax proration  
 180 agreement at Closing, which shall provide, among other things, that (i) as soon as reasonably  
 181 possible after Closing, the parties will diligently pursue until completion a tax parcel split that  
 182 creates a separate tax parcel that includes the Property and no other property and (ii) in the event

183 such tax parcel split is not effective prior to the delivery of any tax assessments following the  
 184 Closing, each party will be responsible for its pro rata share of such assessment. The obligations  
 185 in this paragraph shall survive Closing and the delivery of the Deed.  
 186

187 Seller shall be solely responsible for any and all roll back taxes or other deferred property  
 188 taxes, if any, that are due or become due either before or after Closing. If the same are  
 189 reasonably known at Closing, any such roll back taxes shall be estimated and escrowed with  
 190 Title Company (pursuant to an escrow agreement agreed to by Title Company) at Closing until a  
 191 bill therefor has been presented. Any excess funds shall be reimbursed back to Seller.  
 192

193 **12. SELLER'S REPRESENTATIONS AND WARRANTIES.** To induce Purchaser to  
 194 enter into this Agreement, Seller makes the following representations and warranties, all of  
 195 which are true as of the date hereof (unless otherwise specified) and shall also be true as of the  
 196 Closing Date:  
 197

198 a. Seller is the sole owner of good, marketable, and insurable fee simple title to the  
 199 Property. Seller has the legal authority and capacity to enter into this Agreement and to sell the  
 200 Property. The execution and delivery of this Agreement and the performance by Seller of its  
 201 obligations hereunder have been duly authorized by all requisite action and no further action or  
 202 approval is required in order to constitute this Agreement as a binding and enforceable obligation  
 203 of Seller. The execution of this Agreement by the Seller will not create a default of any kind for  
 204 Seller, violate any restrictions which Seller is subject to, or violate any applicable code,  
 205 resolution, law, judgment, regulation, statute, decree or rule.  
 206

207 b. No leases, options or other contracts for the Property have been granted or entered  
 208 into which are outstanding as of the date of this Agreement, and no party other than Seller has  
 209 any right of possession as to all or any part of the Property.  
 210

211 c. To Seller's actual knowledge, there are no pending condemnation or eminent  
 212 domain proceedings for all or any part of the Property.  
 213

214 d. To Seller's actual knowledge, no act or omission has occurred with respect to the  
 215 Property and no materials or services have been furnished or delivered on or to the Property  
 216 which would create or otherwise encumber the Property with any mechanics, materialmen,  
 217 laborer, or other similar type of lien after the Closing.  
 218

219 e. To Seller's actual knowledge, there is no pending claim, litigation or other  
 220 proceeding whether in a court of law or other venue that currently affects or potentially could  
 221 affect the Property or Seller's right to convey the Property.  
 222

223 f. To Seller's actual knowledge, Seller has complied with all applicable laws,  
 224 ordinances, regulations, statutes, rules and restrictions affecting the Property.  
 225

226 g. To Seller's actual knowledge, with the exception of asbestos-containing materials  
 227 which have been identified in the old Watauga High School building currently located at the  
 228 Property, neither Seller nor any previous owner, tenant, occupant or user of the Property, nor any  
 229 other person, has engaged in or permitted any operations or activities upon, or any use or  
 230 occupancy of the Property, or any portion thereof, for the purpose of or in any way involving the  
 231



231 handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping  
 232 or disposal of any Hazardous Materials (as hereinafter defined) in violation of any applicable  
 233 laws or regulations on, under, in or about the Property, or transported any Hazardous Materials  
 234 to, from or across the Property, nor are any Hazardous Materials presently constructed,  
 235 deposited, stored, or otherwise located on, under, in or about the Property, nor have any  
 236 Hazardous Materials migrated from the Property upon or beneath other properties, nor have any  
 237 Hazardous Materials migrated or threatened to migrate from other properties upon, about or  
 238 beneath the Property, nor are any underground improvements, including but not limited to  
 239 storage tanks, dumps, or water, gas or oil wells now located or have ever been located on the  
 240 Property. As used herein, the term "Hazardous Materials" means:

241  
 242 i. any substance the presence of which requires investigation or remediation  
 243 under any federal, state or local statute, regulation, ordinance, order, action, policy or common  
 244 law; or

245 ii. any substance which is or becomes defined as a "hazardous waste,"  
 246 "hazardous substance," pollutant or contaminant under any federal, state or local statute,  
 247 regulation, rule or ordinance or amendments thereto including, without limitation, the  
 248 Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et  
 249 seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); or

250 iii. any substance which is toxic, explosive, corrosive, flammable, infectious,  
 251 radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any  
 252 governmental authority, agency, department, commission, board, agency or instrumentality of  
 253 the United States, the State of North Carolina or any political subdivision thereof; or

254 iv. any substance the presence of which on the Property causes or threatens to  
 255 cause a nuisance upon the Property or to adjacent properties or poses or threatens to pose a  
 256 hazard to the health or safety of persons on or about the Property; or

257 v. any substance the presence of which on adjacent properties could  
 258 constitute a trespass by Seller; or

259 vi. any substance, without limitation, which contains gasoline, diesel fuel or  
 260 other petroleum hydrocarbons; or

261 vii. any substance, without limitation, which contains polychlorinated  
 262 bipheynols (PCBs), asbestos or urea formaldehyde foam insulation; or

263 viii. without limitation, radon gas.

264 With respect to the representations and warranties contained in subparagraphs (a) through  
 265 (g) above, Seller agrees to indemnify, defend, reimburse and hold harmless Purchaser, its  
 266 affiliates, successors and assigns from any and all liabilities, costs, damages and expenses  
 267 (including without limitation, attorneys' fees) arising from or related to the breach of any  
 268 representation or warranty as to conditions existing on or prior to the Closing Date for a period  
 269 ending two (2) years after the Closing.

270 Except for the representations and warranties of Seller specifically set forth in this  
 271 Agreement, the Property is being sold and conveyed by Seller to Purchaser in its "AS IS,  
 272 **WHERE IS," PHYSICAL CONDITION WITH ALL FAULTS.** Except for the  
 273 representations and warranties of Seller specifically set forth herein, Seller makes no guarantee,  
 274 warranty or representation, express or implied, as to the quality, character or condition of the  
 275 Property (or any part thereof) or to the fitness of the Property (or any part thereof) for any use or  
 276 purpose or any representation as to the existence or nonexistence of any hazardous or toxic  
 277 substances or materials. In no event shall Seller be liable for any incidental, special, exemplary  
 278 or consequential damages due to the physical condition of the Property, absent a breach of  
 279 Seller's express representations and warranties contained herein. Purchaser represents and  
 280 warrants to Seller that as of the Closing Date, Purchaser will have had ample opportunity to  
 281 make a proper inspection, examination and investigation of the physical condition of the  
 282 Property to familiarize itself with the condition and that it will do so to its satisfaction. The  
 283 provisions of this paragraph shall survive the Closing and delivery of the Deed.

284 **13. DEFAULT.**

285  
 286 a. Default by Seller. In the event any of the specific representations, warranties or  
 287 covenants of Seller contained in this Agreement proves to be untrue in any material respect, or if  
 288 Seller refuses to perform its obligations at or prior to Closing after Purchaser tenders its  
 289 performance of its obligations or to comply with any of the provisions hereof at or prior to  
 290 Closing, then, at Purchaser's option, Purchaser may elect to (a) terminate this Agreement by  
 291 providing written notice to Seller and receive a refund of the Earnest Money from Escrow Agent  
 292 within five (5) business days of written receipt by Escrow Agent of a copy of such notice of  
 293 termination along with a written request from Purchaser for the Earnest Money (with a copy  
 294 going to Seller), and/or (b) proceed with the remedy of specific performance against Seller.  
 295

296 b. Default by Purchaser. In the event Purchaser fails to timely tender its obligations  
 297 to be performed at the Closing, then, if Seller is not in default as specified in the foregoing  
 298 paragraph, Seller shall be entitled to the Earnest Money, as full liquidated damages, the same  
 299 being Seller's sole remedy, whereupon this Agreement and all rights and obligations created  
 300 hereby shall automatically terminate and be null and void and of no further force or effect  
 301 whatsoever. In this regard, the Escrow Agent shall disburse the Earnest Money to Seller within  
 302 five (5) business days of receipt by Escrow Agent of a written request from Seller (with a copy  
 303 going to Purchaser). It is agreed by Seller and Purchaser that, in the event of a breach by  
 304 Purchaser, the amount of actual damages suffered by Seller would be expensive and difficult to  
 305 ascertain and the retention of the Earnest Money as liquidated damages are a reasonable estimate  
 306 of the parties of the actual damages to Seller herein and are not a penalty.  
 307

308 In the event of a dispute as to which party is entitled to the Earnest Money and litigation  
 309 is necessary, the prevailing party shall be entitled to the recovery of its costs and reasonable  
 310 attorney's fees.  
 311

312 **14. CONDEMNATION AND DESTRUCTION.** If, on or prior to the Closing Date, any  
 313 portion of the Property is the subject of a pending or contemplated taking by eminent domain  
 314 which has not been consummated or if the Property has been materially damaged or destroyed,  
 315 Seller shall notify Purchaser within five (5) days of obtaining knowledge of such fact, and  
 316 Purchaser shall have the option to terminate this Agreement upon giving written notice to Seller

317 prior to Closing. In the event Purchaser shall elect to terminate this Agreement, Purchaser shall  
 318 receive a refund of the Earnest Money within five (5) business days of receipt by Escrow Agent  
 319 of written demand (with a copy going to Seller), and neither party shall have any further rights or  
 320 obligations hereunder. If, after receipt of Seller's notice, as aforesaid, Purchaser does not  
 321 exercise its option to terminate this Agreement, the parties hereto shall remain bound hereunder  
 322 and Seller shall assign and turn over at Closing, and Purchaser shall be entitled to receive and  
 323 keep, all awards for the taking by eminent domain described in said notice or all insurance  
 324 proceeds payable as a result of such destruction or damage.

325 **15. NOTICES.** All notices, requests, consents and other communications hereunder shall be  
 326 in writing and shall be personally delivered, or delivered by overnight courier, or mailed by first  
 327 class, registered or certified mail, return receipt requested, postage prepaid, or delivered by  
 328 facsimile (provided that a notice delivered by facsimile shall immediately thereafter be delivered  
 329 by one of the other methods permitted in this Section 15), as follows:

330

331 Notice to Purchaser: Campus Crest Development, LLC  
 332 2100 Rexford Rd., Suite 414  
 333 Charlotte, NC 28211  
 334 Attention: General Counsel  
 335 Facsimile: (704) 943-4298

336

337 with a copy to: Dawn Helms Sharff  
 338 Bradley Arant Boult Cummings LLP  
 339 One Federal Place  
 340 1819 Fifth Avenue North  
 341 Birmingham, AL 35203  
 342 Facsimile: (205) 488-6200

343

344 Notice to Seller: Watauga County, North Carolina  
 345 c/o Nathan A. Miller, Chairman of  
 346 Watauga County Board of County Commissioners  
 347 814 West King Street, Suite 205  
 348 Boone, NC 28607  
 349 Facsimile: \_\_\_\_\_

350

351 with a copy to: Stacy C. Eggers, IV  
 352 Eggers, Eggers, Eggers & Eggers, PLLC  
 353 737 West King Street  
 354 Boone, NC 28607  
 355 Facsimile: (828) 262-5229

356

357 Notice to  
 358 Title Company: First American Title Insurance Company  
 359 National Commercial Services  
 360 30 North LaSalle St., Suite 2700  
 361 Chicago, IL 60602  
 362 Attention: John E. Beckstedt, Jr.  
 363 Facsimile: (888) 279-8547

364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411

Notice to  
Escrow Agent: Clerk to the Board of Watauga County Commissioners

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_

Any such notice, request, consent or other communications shall be deemed received at such time as it is actually delivered, on the first business day following an overnight delivery, or on the fifth business day after a mailing, as the case may be. Either party hereto may change the address for receiving notices hereunder by notice sent in accordance with the terms of this Section 15.

**16. BROKER.** The parties warrant to each other that no broker is entitled to commission on the sale and purchase of the Property hereunder and that each party will indemnify and hold the other party harmless of any demands, claims or other obligations asserted by any person for a brokerage commission through such party, except as follows:

Upon the closing of the transaction evidenced hereby, Seller shall pay a commission to Miller Properties, Inc. in accordance with the terms of a separate agreement.

**17. INTENTIONALLY BLANK.**

**18. MISCELLANEOUS.**

a. Governing Law. This Agreement shall be governed by and interpreted by the internal laws of the state in which the Property is located, without regard to its conflicts of law provisions.

b. Entire Agreement. This Agreement represents the entire agreement between Purchaser and Seller and supersedes any other agreements or understanding whether written or verbal and may not be changed unless in writing and fully executed by both Purchaser and Seller.

c. Survival of Representations and Warranties. All representations, warranties, covenants and agreements made in this Agreement shall survive closing and the delivery of the Deed. Seller agrees to perform any acts reasonably required by Purchaser to effectively transfer the Property to Purchaser without additional cost to Purchaser for a period of six (6) months after the Closing.

d. Time of the Essence. Both parties hereto specifically agree that time is of the essence to this Agreement with respect to the performance of the obligations of the parties under this Agreement.

e. Assignment; Successors and Assigns. This Agreement may be assigned by Purchaser, without Seller's consent, and shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors and assigns.

412 f. Section 1031 Like-Kind Exchange. Seller acknowledges that Purchaser may  
 413 engage in a like-kind exchange with respect to the Property under Section 1031 of the Internal  
 414 Revenue Code (the "1031 Exchange"). Seller agrees to cooperate with Purchaser, at no expense  
 415 to Seller, in connection with a 1031 Exchange of the Property and consents to the assignment of  
 416 this Agreement by Purchaser to a "qualified intermediary" (within the meaning of Section  
 417 1.1031(k)-1 of the Treasury Regulations) for purposes of effecting a 1031 Exchange.

418  
 419 g. Standstill. While this Agreement is in effect, Seller shall advertise the Property for  
 420 upset bids in accordance with the same terms and conditions set forth herein for the purpose of  
 421 receiving bids in accordance with N.C. Gen. Stat. §153A-176 and §160-269. In the event Seller  
 422 receives an upset bid which it chooses to accept, the terms and conditions of this Agreement  
 423 shall become null and void and all Earnest Money shall be refunded to Purchaser. This process  
 424 shall be initiated by Seller within the first 20 days of the Inspection Period described in this  
 425 Agreement. Except as set forth herein, Seller will not actively market, sell or encumber the  
 426 Property in any manner, will not accept, negotiate or entertain any other offers for the Property  
 427 and will maintain the Property in its current condition and in compliance with applicable laws.

428  
 429 h. Captions and Interpretations. Paragraph titles or captions contained herein are  
 430 inserted as a matter of convenience and for reference, and in no way define, limit, extend or  
 431 describe the scope of this Agreement or any provision hereof. No provision in this Agreement is  
 432 to be interpreted for or against either party because that party or its legal representative drafted  
 433 such provision.

434  
 435 i. Business Days. In the event any period of time provided for in this Agreement  
 436 ends on a day other than a business day on which banks are generally open for a full day for  
 437 business, such ending date shall automatically be extended to the next business day.

438 j. Counterparts; Electronic/Facsimile Signatures. This Agreement may be executed  
 439 in two or more separate counterparts, each of which, when so executed and delivered, shall  
 440 constitute an original, and all such counterparts shall together constitute one and the same  
 441 instrument, and any party may execute this Agreement by executing any one or more of such  
 442 counterparts. Signatures delivered electronically or by facsimile shall be as binding as original  
 443 signatures.

444 k. Confidentiality. Except for those public disclosures required by applicable law,  
 445 Seller hereby agrees that the matters contained herein and any information regarding the  
 446 relationship between Purchaser and Seller, including any communications preceding the  
 447 execution of this Agreement, shall remain confidential, and that Seller will not reveal to any third  
 448 parties other than Seller's attorneys and other advisors the contents of this Agreement or the  
 449 details of any such communications. Seller acknowledges that Purchaser will have all remedies  
 450 available at law or in equity in the event of a breach of this subparagraph (k) by Seller or its  
 451 affiliates.

452 **19. WATER/SEWER CAPACITY.** As a condition precedent to Purchaser's obligation to  
 453 close hereunder (which condition precedent may be waived by Purchaser in its sole discretion),  
 454 Seller agrees that prior to the end of the Inspection Period, Seller, at its sole cost and expense  
 455 (except with regard to the impact fee discussed below), will furnish to Purchaser evidence  
 456 reasonably satisfactory to Purchaser that Seller has caused 150,000 gallons per day (impact) of

457 water and sewer capacity to be permanently allocated to the Property, subject to Purchaser's  
458 obligation to obtain a land disturbance permit for the Property on or before December 31, 2013.  
459 Purchaser agrees to pay any impact fee(s) required in order for such water and sewer capacity to  
460 be allocated to the Property.

461 **20. TRAFFIC LIGHT.** Seller, at no cost to Seller, will use its best efforts (i) to cause to be  
462 reinstalled the traffic light previously serving the Property and located at the intersection of  
463 Highway 105 and High School Drive and (ii) to ensure that said traffic light is in good condition  
464 and fully functioning. The parties acknowledge that the North Carolina Department of  
465 Transportation ("NCDOT"), not Seller, ultimately controls whether or not said traffic light will  
466 be installed and that NCDOT may not be willing to cause said traffic light to be installed and  
467 operational until Purchaser's development of the Property has been completed. The "best efforts"  
468 obligations of Seller in this paragraph shall survive Closing and the delivery of the Deed.

469 **21. DEMOLITION OF EXISTING BUILDING.** As a condition precedent to Purchaser's  
470 obligation to close hereunder (which condition precedent may be waived by Purchaser in its sole  
471 discretion), Seller agrees that prior to Closing, Seller, at its sole cost and expense, will cause to  
472 be demolished, in accordance with all applicable laws and regulations (including laws and  
473 regulations related to asbestos-containing materials) and pursuant to properly issued permits and  
474 licenses, the old Watauga High School building currently located at the Property. Seller will  
475 provide to Purchaser evidence reasonably satisfactory to Purchaser that said demolition work has  
476 been paid for in full and that the contractor(s) performing such work has issued a full lien waiver  
477 with regard to any rights said contractor(s) might otherwise have to file a mechanics' lien against  
478 the Property. Seller hereby represents to Purchaser, and Purchaser acknowledges, that Seller has  
479 entered into a contract with NEO Corporation for the demolition of the old Watauga High School  
480 building currently located at the Property and that said contract requires the proper removal of  
481 asbestos-containing materials from said building and the demolition thereof to a non-vertical  
482 "building pad," as well as the removal of all debris and materials from the Property. Seller  
483 hereby further represents to Purchaser, and Purchaser acknowledges, that Seller does not intend  
484 to perform any additional demolition work at the Property with regard to asphalt, curb and  
485 guttering and any miscellaneous outbuildings currently located at the Property.

486

487

488

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

489

490 **IN WITNESS WHEREOF**, Purchaser and Seller have executed this Agreement as of  
491 the day and year first above written.

492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536

**SELLER:**

**WATAUGA COUNTY**, a North Carolina corporate  
and body politic chartered by the State of North  
Carolina

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PURCHASER:**

**CAMPUS CREST DEVELOPMENT, LLC**

By: \_\_\_\_\_  
Name: Ted W. Rollins  
Title: Co-Chairman and Chief Executive Officer

537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557

**JOINDER**

The Clerk to the Board of the Watauga County Commissioners hereby acknowledges the receipt of the Earnest Money described in the Agreement to which this Joinder is attached and agrees to hold said Earnest Money in accordance with the terms hereof, and in accordance with the terms of its Conditions of Escrow, a copy of which is attached hereto as Exhibit D.

**CLERK TO THE BOARD OF THE WATAUGA  
COUNTY COMMISSIONERS**

By: \_\_\_\_\_

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

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

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



558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580

**Exhibit A**

[Legal Description or Depiction of the Property]

that certain real property conveyed to Seller in the following instruments recorded with the Watauga County, North Carolina register of deeds:

Book 1084, Page 728

Book 1084, Page 732

Book 1353, Page 115

Parcel ID numbers and Bk/Pg:

2910-02-7724-000 Bk1353 Pg115,

2910-03-2114-000 Bk1353 Pg115,

2910-13-4202-000 Bk1084 Pg728,

2910-13-0228-000 Bk1084 Pg732,

2910-01-5763-000 Bk1353 Pg115,

2910-11-0378-000 Bk1353 Pg115,

2900-92-7413-000 Bk1353 Pg115,

as recorded in Watauga County.

581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605

**Exhibit B**

[Items to be provided by Seller]

all existing surveys and surveyor's reports, any studies, maps, plans, reports or other documents relating to the Property and prepared by or at the request of Seller, including, but not limited to, appraisals, traffic studies, environmental studies, soil boring data and testing documents and title insurance commitments/policies

606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636

**Exhibit C**

[Seller's Deliverables at Closing]

- (a) A fully executed Deed;
- (b) Fully executed versions of an owner's affidavit, lien waiver, or any other agreements, affidavits, or indemnities necessary for the purpose of removing the "standard" exceptions from Purchaser's owner's title insurance policy for the Property;
- (c) "Payoff Letters" with respect to all real estate liens or other instruments or agreements to be canceled pursuant to the terms of this Agreement;
- (d) Fully executed versions of any state and federal affidavits of residency reasonably required by Purchaser;
- (e) A fully executed certificate of non-foreign status to insure Seller's compliance with Foreign Investment in Real Property Tax Act ("FIRPTA") (Section 1445 of the Internal Revenue Code of 1986, as amended);
- (d) A closing statement executed by Seller;
- (e) Fully executed versions of any other documents as are reasonably required by the Title Company and Purchaser to evidence Seller's existence and authority to convey the Property to Purchaser, and as may be required to close;
- (f) Possession of the Property; and
- (g) Any other documents specifically contemplated in this Agreement.

**Exhibit D**

**CONDITIONS OF ESCROW**

Except as specifically modified by the written escrow instruction(s) received and accepted by the Escrow Agent, the following Conditions of Escrow shall apply to this escrow or settlement.

1. Escrow Agent: The Clerk to the Board of the Watauga County Commissioners is herein referred to as the Escrow Agent.

2. DEPOSIT OF FUNDS: All checks, money orders or drafts will be processed for collection in the normal course of business. Escrow Agent may commingle funds received by it in escrow with escrow funds of others, and may, without limitation, deposit such funds in its custodial or escrow accounts with any reputable trust company, bank, savings bank, savings association, or other financial services entity, including any affiliate of Escrow Agent. It is understood that Escrow Agent shall be under no obligation, except to the extent noted on Instruction For Investment of Escrow Funds form, to invest the funds deposited with it on behalf of any depositor, nor shall it be accountable for any earnings or incidental benefit attributable to the funds which may be received by Escrow Agent while it holds such funds. Deposits held by Escrow Agent shall be subject to the provisions of applicable state statutes governing unclaimed property.

3. LIMITATIONS OF LIABILITY: Escrow Agent shall not be liable for any loss or damage resulting from the following item(s):

(a) The effect of the transaction underlying this escrow including, without limitation, any defect in the title to the real estate, any failure or delay in the surrender of possession of the property, the rights or obligations of any party in possession of the property, the financial status or insolvency of any other party, and/or any misrepresentations of fact made by any other party;

(b) The legal sufficiency of the document(s) purporting to transfer or otherwise encumber title to the real estate;

(c) The default, error, act or failure to act by any other party to the escrow;

(d) Any loss, loss of value or impairment of funds which have been deposited in escrow while those funds are in the course of collection or while those funds are on deposit in a depository institution if such loss, loss of value or impairment results from the failure, insolvency or suspension of a depository institution;

(e) Any defects or conditions of title to any property that is the subject of this escrow;

(f) The expiration of any time limit or other consequences of delay, absent receipt of a properly executed escrow instruction, accepted by Escrow Agent, instructing the Escrow Agent to comply with said time limit; and

(g) Escrow Agent's compliance with any legal process including, but not limited to, subpoena, writs, orders, judgments and decrees of any court whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside or reversed.

(NOTE: This paragraph shall not be construed to limit Escrow Agent's liability for its own gross negligence or willful misconduct.)

689 4. DEFAULT AND/OR DISPUTES: In the event any party to the transaction underlying this  
690 escrow shall tender any performance after the time when such performance was due, Escrow Agent may  
691 proceed under this escrow, unless one of the parties to this escrow shall give to the Escrow Agent a  
692 written direction to stop the further performance of the Escrow Agent's functions hereunder. In the event  
693 of written notice of default or dispute is given to the Escrow Agent by any party, Escrow Agent will  
694 promptly notify all other parties of such notice. Thereafter, Escrow Agent will decline to disburse funds  
695 or to deliver any instrument or otherwise continue to perform its escrow functions, except upon receipt of  
696 a mutual written agreement of the parties or upon an appropriate order of court.

697  
698 5. ACCOUNTING: Escrow Agent shall account to the parties for all funds received and disbursed  
699 hereunder at the time of final settlement and closing of this escrow. Escrow Agent shall not be liable for  
700 the accuracy of information furnished to it by other persons in the normal course of business, or the  
701 failure to adjust items not designated in writing. Adjustment items shall be prorated on the basis of a  
702 calendar year and a thirty day month. Escrow Agent shall account for adjustments, credits and charges of  
703 expense items according to the custom and usage of the community. Absent specific written instructions  
704 to the contrary, signed approval of settlement statements or other accounting of funds shall constitute the  
705 authority to Escrow Agent to disburse funds as shown thereon, and deliver instruments held in escrow as  
706 set forth in the escrow instruments. Upon completion of the disbursement of funds and delivery of  
707 instruments, Escrow Agent shall be released and discharged of its escrow obligations hereunder.

708  
709 6. FEES, CHARGES AND/OR OTHER EXPENSES: Escrow Agent shall not charge for its  
710 services hereunder.

711 7. ATTORNEYS' FEES: In the event that litigation is initiated relating to this escrow, the parties  
712 hereto agree that Escrow Agent shall be held harmless from any and all attorneys' fees, court costs and  
713 expenses relating to that litigation to the extent that litigation does not arise as a result of the Escrow  
714 Agent's gross negligence or willful misconduct. The parties hereto agree to indemnify Escrow Agent for  
715 all such attorneys' fees, court costs and expenses. To the extent that Escrow Agent holds a fund under the  
716 terms of this escrow, the parties agree that the Escrow Agent may charge that fund with any such  
717 attorneys' fees, court costs, and expenses as they are incurred by Escrow Agent.



REALTOR® North Carolina Association of REALTORS®

DISCLOSURE AND FEE AGREEMENT FOR NON-LISTED PROPERTY SALE

This Agreement is entered into by and between: WATAUGA COUNTY A LIMITED LIABILITY CORPORATE BODY PUBLIC CHOSEN BY THE STATE OF NORTH CAROLINA ("Seller"), and Haganan Realty ("Firm"). (Name of Firm)

RECITALS:

A. Seller is the owner of the property commonly known as:

Old Watauga Area School 400 WILD SCHOOL DR. BOONE, N.C. 28607 74.5 acres +/- DEEDBOOK 1084, 1084, 1353 PLOTT 728, 732, 115 SEE EXHIBIT "A" ("Property").

B. Firm has advised Seller of Firm's general company policy regarding agency. Seller has received and read the North Carolina Real Estate Commission's "Working with Real Estate Agents" publication (NCAR Standard Form 520) and understands that Firm will be acting as:

- a Seller's Agent
 a Buyer's Agent

with respect to:

PLANS ACQUISITION AND BUY PARTY OR PRINCIPAL (PHILLO CLOEK) ("Buyer") who would like to see the Property.

any prospect Firm registers with Seller as evidenced by a registration document (either a CONFIRMATION OF AGENCY RELATIONSHIP AND REGISTRATION STATEMENT - NCAR Form 510 or substantially similar registration document) provided by Firm to Seller prior to showing the Property. For the purposes of this Agreement, any such registered prospect is referred to as "Buyer".

Accordingly, the parties agree as follows:

1. FEE. When Seller accepts an unconditional offer from Buyer or when all conditions have been met following the Seller's acceptance of a conditional offer from Buyer, then Seller shall pay Firm a fee equal to FIVE percent (5 %) of the gross sales price of the Property, or the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), whichever is greater.

Seller shall pay the fee to Firm in cash or by bank check. Gross sales price includes any and all consideration received or receivable, in whatever form, by Seller including, but not limited to, the assumption or release of existing liabilities. Seller shall pay the fee upon delivery of the deed or other evidence of transfer of title or interest; provided, however, if the transaction involves an installment contract, then Seller shall pay the fee upon the signing of such installment contract. In the event of any breach by Seller, Seller's successors or assigns, of any contract of purchase and sale, it is understood and agreed that the fee remains earned and payable upon notice given by Seller to Buyer of Seller's intent not to proceed with such sale, notwithstanding the basis of such intent not to proceed. In the event Seller contributes or conveys the Property or any interest therein to a joint venture, partnership or other business entity or executes an exchange, the fee shall be calculated on the fair market value of the Property or interest therein contributed, conveyed, transferred or exchanged and is payable at the time of the contribution, conveyance, transfer or exchange. If Seller is a partnership, corporation or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a fee or commission in connection with such sale or transfer, the fee shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid by Seller at the time of the transfer.



North Carolina Association of REALTORS®, Inc.

Seller Initials \_\_\_\_\_

Firm Rep. Initials [Signature]



STANDARD FORM 573

Revised 7/2011

© 7/3012

2. **TERM:** This Agreement shall be effective for a period extending until midnight on Sept. 30 2013. If, within 365 days after the expiration of this agreement, Seller directly or indirectly sells or agrees to sell the Property to Buyer, then Seller shall pay Firm the same commission to which it would have been entitled had the sale been made during the term of this agreement.

3. **LEASE PROTECTION PROVISION.** In the event that the Property is leased to Buyer during the term hereof, it is acknowledged that a commission shall be nonetheless earned by Firm upon execution of such lease agreement. The parties agree to act in good faith in determining that the commission is an amount reasonable in this area for the type of Property.

4. **PARTIES AND BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives. Seller agrees that at any time during the term of this Agreement, Firm may either assign Firm's rights and responsibilities hereunder to another real estate agency, or transfer to another person or entity all or part of the ownership of Firm's real estate agency, and that in the event of any such assignment or transfer, this Agreement shall continue in full force and effect; provided, that any assignee or transferee must be licensed to engage in the business of real estate brokerage in the State of North Carolina. In the event of any such assignment or transfer, Seller may terminate this Agreement without cause on thirty (30) days' prior written notice to the assignee or transferee of Seller's intent to terminate this Agreement.

**THE AGENT SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY TO THE AGREEMENT. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OF ANY PARTY OR PROSPECTIVE PARTY TO THIS AGREEMENT.**

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

**SELLER:**

**Individual:**

\_\_\_\_\_  
(SEAL)

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

\_\_\_\_\_  
(SEAL)

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

**FIRM:**

Hawanna Realty  
(Name of Firm)

By: \_\_\_\_\_ (SEAL)

Name: Tim Hawanna

Individual license #: 175676

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

Address: P.O. Box 1688

Boone, N.C. 28607

Phone: 828-264-1333

Facsimile: \_\_\_\_\_

E-mail: HawannaRealty@CarMax.com

Business Entity Watauga County, a North Carolina Corporate Body Politic created by the State of North Carolina  
(Name of Entity)

By: \_\_\_\_\_ (SEAL)

Name: Notary A. Miller  
Title: CLERK OF THE WATAUGA COUNTY BOARD OF COUNTY COMMISSIONERS

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

Address: 914 West Kinn ST  
Boone, N.C. 28607

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_





**Exhibit B to Disclosure and Fee Agreement for Non-Listed Property Sale**

Notwithstanding anything contained in the terms of the fee agreement and compensation to be paid to Buyer's Agent in the attached contract, the commission to be paid to Buyer's Agent is subject to the following condition:

In the event an offer is submitted which the Watauga County Board of Commissioners proposes to accept, Watauga County will pay to the Agent the sum set forth in the contract upon the final closing and transfer of the property to Buyer. In accordance with N.C. Gen. Stat. §160A-269, Watauga County shall advertise the property for upset bids in accordance with the statutory requirements. In the event that the accepted offer is upset through the advertisement and bid process of N.C. Gen. Stat. §160A-269, and the property is sold to a party other than the party who made the initial accepted offer, and the upset bid party which closes on the purchase at the upset bid price is represented by another real estate agent licensed in North Carolina, the Agent agrees that the commission will be divided equally between the real estate agent who presented the initial offer and the real estate agent for the upset bid purchaser.

If the Agent set forth in this agreement is not the agent representing the initial purchaser, but instead represents the high bidder at the end of the upset bid process, the amount of commission set forth in Paragraph One of this contract shall be altered to equal the percentage of the commission agreed to for the Agent's Compensation as provided in the underlying offer the Commissioners initially proposed to accept, and that amount shall be the amount divided equally between the real estate agent who presented the initial offer and the real estate agent for the upset bid purchaser as provided above.

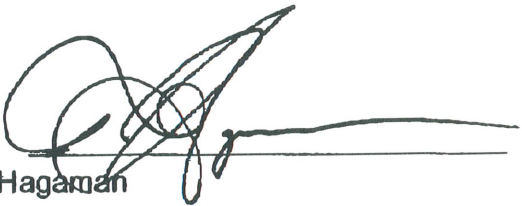
The payment of any commission is contingent upon the closing of the sale of the property by Watauga County.

This the \_\_\_\_ day of October, 2012.

**Seller:**

**Agent:**

\_\_\_\_\_  
Watauga County, a body politic  
Of the State of North Carolina  
By: Nathan A. Miller, Chairman

  
\_\_\_\_\_  
Tim Hagaman  
d/b/a Hagaman Realty  
License Number: 175676

**Attest:**

\_\_\_\_\_(SEAL)  
Anita Fogle, Clerk to the Board

Blank Page

**AGENDA ITEM 5:**

**WATAUGA COUNTY TOURISM DEVELOPMENT AUTHORITY'S (TDA) FY 12  
ANNUAL REPORT**

**MANAGER'S COMMENTS:**

Mr. Wright Tilley, TDA Executive Director, will present an update on the TDA and provide Fiscal Year 2011/12 numbers.

The report is for information only, and therefore no action is required.



## Memorandum

---

TO: Deron Geouque, Watauga County Manager  
Watauga County Board of Commissioners

FROM: Wright Tilley, Executive Director

RE: TDA Update

DATE: 10/8/12

---

On behalf of the Watauga County Tourism Development Authority, I wanted to provide a brief update on the TDA. Attached are two occupancy tax reports. One report shows the ending numbers for the FY 2011/12 fiscal year and the other report gives the numbers for the first two months of the current fiscal year.

I am very pleased to report that FY 11/12 was another record year for the Watauga TDA in terms of occupancy tax revenue. We finished the year with an 8.05% increase over the prior fiscal year, which meant an additional \$66,065.58 in occupancy tax revenue.

So far the upward trend is continuing into the new fiscal year. July revenues were up 1.66% and August was up 17.93%, giving us the best August total ever.

The NC Department of Commerce & Division of Tourism released their county-by-county economic impact of travel report for 2011. Watauga County continues to rank 19<sup>th</sup> out of the 100 North Carolina counties in terms of travel impact. Domestic tourism in Watauga County generated an economic impact of \$197.56 million in 2011, which is a 4.11% increase from 2010. More than 2400 jobs in Watauga County were directly attributable to travel and tourism. State and local tax revenues from travel to Watauga County amounted to \$18.16 million, which represents a \$354 tax saving to each county resident.

The TDA's advertising campaign of "Its Cooler Up Here" resonated well with potential visitors off the mountain and allowed us to promote the cooler temperatures plus all the "cool" things to do in the Boone area.

The TDA has just launched a "Brand Perception and Market Study" research initiative through Magellan Strategies Group & R2R Research. This study should provide us with a baseline of where we are in terms of perceived brand and destination awareness. That will hopefully serve as a base for helping evaluate future marketing and advertising campaign effectiveness.



Our infrastructure projects are progressing as expected and we are pleased to inform you that Watauga Gorge Park is complete, except for a few minor landscaping projects. Eric is meeting on-site with a state official on October 11 for final review. We expect to closeout this grant by the end of October.

The playground at Rocky Knob is complete, passed inspection, and is getting lots of use already. The picnic shelter is also complete. We still have tables and some benches to add to the area in addition to landscaping. The landscape/hardscape bid packages are out and will be due on October 22<sup>nd</sup>. In terms of PARTF grant obligations, we have met the requirements with the completion of the playground and picnic shelter. Eric met with state PARTF representatives for a review of the site and they were pleased. We hope to have the final paperwork completed by the end of October to submit for the final \$50,000 payment and closeout that grant.

Finally, we are pleased to report that the FY 2011/12 audit, conducted by Martin Starnes & Associates, has been accepted by the LGC.

Occupancy Tax Collection Report

	JULY 2012 to DATE	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	March	April	May	June	JULY to Date
BR		119,173.62	89,976.31											209,149.93
		107,415.71	93,735.40											201,151.11
		(11,757.91)	3,759.09											(7,998.82)
		-9.87%	4.17%											-3.82%
Boone		121,579.31	101,762.92											223,442.23
		121,739.85	116,576.99											238,316.84
		60.54	14,814.07											14,874.61
		0.05%	14.55%											6.66%
Wat		133,182.15	92,358.95											225,541.10
		135,398.64	108,921.98											244,320.62
		2,216.49	16,563.03											18,779.52
		1.66%	17.93%											8.33%
TTL\$		374,035.08	284,098.18											658,133.26
Prior Yr		364,554.20	319,234.37											683,788.57
Cur Yr		(9,480.88)	35,136.19											25,655.31
\$s +/-		-2.53%	12.37%											3.90%
% +/-														

Year	Totals												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1999	33,426.07	53,605.11	49,082.37	34,262.59	47,629.65	20,691.79	19,879.66	14,260.17	12,858.68	11,307.16	15,887.21	24,136.17	\$ 337,026.63
2000	56,207.70	42,718.16	33,367.50	50,420.80	24,342.79	25,549.88	26,297.10	27,365.42	19,631.48	22,950.89	30,083.06	37,876.76	\$ 396,811.54
2001	36,717.82	60,697.01	45,197.20	33,930.90	45,226.40	19,325.92	22,217.35	13,934.44	13,717.15	10,805.99	12,868.52	21,118.15	\$ 335,756.85
2002	55,152.34	46,307.14	38,345.44	51,364.62	23,782.07	30,410.79	31,186.49	30,289.82	20,397.70	21,395.11	28,273.36	39,828.82	\$ 416,733.70
2003	33,693.61	53,726.50	47,149.39	30,661.53	46,518.39	20,296.40	18,134.27	11,476.27	12,671.66	11,222.12	12,715.96	21,681.40	\$ 319,947.50
2004	55,934.46	46,873.44	34,901.83	55,741.35	26,572.28	26,425.93	31,433.38	32,696.79	24,781.74	25,419.92	31,850.05	40,566.55	\$ 433,197.72
2005	35,529.42	54,188.40	49,599.72	26,773.78	43,128.09	20,787.78	16,820.72	16,420.77	10,812.84	10,653.40	20,654.56	28,706.66	\$ 334,076.14
2006	60,911.52	52,777.19	35,532.56	54,712.92	29,634.38	30,279.25	37,404.64	30,629.28	27,312.67	22,467.30	30,773.49	36,589.54	\$ 449,024.74
2007	56,446.26	46,218.95	25,445.33	45,549.60	20,948.42	20,044.46	25,817.35	20,161.20	23,399.54	39,361.92	39,411.92	69,197.57	\$ 432,002.52
2008	60,298.00	50,962.98	34,236.30	58,150.01	30,153.56	33,720.32	35,706.85	36,448.84	25,319.75	25,682.67	32,799.45	45,893.70	\$ 469,372.43
2009	108,049.44	78,433.56	51,393.64	92,739.07	39,699.55	45,350.35	24,270.10	28,516.15	21,160.12	26,433.79	42,345.87	69,270.16	\$ 627,661.80
2010	64,541.86	47,448.51	34,077.41	59,846.80	27,648.77	33,811.39	28,580.79	37,287.74	26,663.99	34,154.83	31,030.00	49,656.42	\$ 474,748.51
2011	113,063.44	91,263.12	63,029.55	101,704.60	48,236.72	52,011.03	31,285.00	36,908.06	29,911.54	35,645.29	51,122.12	82,149.17	\$ 736,329.64
2012	58,697.84	54,414.19	38,202.89	55,382.18	32,601.32	36,404.12	33,683.49	40,307.89	30,291.46	27,984.62	33,121.99	54,588.31	\$ 495,680.30
2013	120,889.02	99,291.93	79,181.30	107,943.97	50,879.85	55,420.32	31,335.11	37,531.32	29,435.55	37,166.79	56,637.83	90,201.81	\$ 795,914.80
2014	61,771.86	55,782.28	47,694.90	60,693.75	34,397.34	38,915.72	32,370.51	39,309.54	32,360.25	31,836.21	40,015.44	58,186.19	\$ 533,333.99
2015	98,722.04	75,180.98	58,824.05	92,706.53	52,673.99	80,063.48	49,632.33	48,692.79	24,933.99	31,383.76	43,056.80	72,422.32	\$ 728,293.06
2016	114,224.85	110,457.88	80,870.39	109,896.31	59,030.00	48,586.27	38,506.48	36,295.22	29,336.94	31,027.15	52,229.41	70,080.86	\$ 780,541.76
2017	60,648.36	64,133.62	48,287.67	65,322.55	40,487.67	38,718.11	39,281.79	43,701.25	31,274.83	30,639.22	38,566.26	53,110.74	\$ 554,172.17
2018	110,838.40	99,859.19	59,507.63	97,802.70	69,670.45	83,090.14	55,520.98	59,116.81	32,934.23	27,323.63	50,465.39	70,074.86	\$ 816,204.41
2019	111,461.45	104,287.66	56,990.66	102,356.95	47,704.66	40,350.89	37,989.48	27,945.33	17,050.58	27,595.26	42,923.70	63,017.66	\$ 679,684.28
2020	61,317.05	63,953.04	41,615.00	68,196.86	34,510.11	36,713.60	39,892.00	37,147.00	26,212.62	29,896.70	35,085.79	51,316.00	\$ 525,855.77
2021	121,620.82	103,051.49	52,092.94	98,971.94	68,375.52	81,345.85	54,645.36	49,735.68	16,665.87	26,951.94	41,815.06	62,837.02	\$ 778,309.49
2022	96,353.76	78,133.43	52,907.25	92,038.43	41,149.73	44,052.46	31,229.92	24,841.76	16,719.75	30,389.13	40,948.56	74,004.48	\$ 625,768.66
2023	59,722.46	54,259.28	42,339.19	132,508.11	66,927.72	83,276.00	73,736.54	73,015.95	64,623.28	63,695.25	76,073.53	105,259.98	\$ 895,437.27
2024	108,977.15	84,495.10	51,097.22	92,273.50	58,827.09	73,783.88	60,170.04	46,869.99	27,193.49	30,013.12	38,878.69	56,144.88	\$ 728,724.15
2025	115,976.02	90,988.67	62,746.64	110,462.60	46,076.08	48,646.35	32,574.26	27,536.06	21,737.93	30,279.41	45,012.96	68,215.21	\$ 700,232.19
2026	125,492.50	105,980.34	81,385.95	140,980.21	59,358.13	79,508.35	66,435.77	62,098.35	57,960.12	57,524.10	66,449.14	95,652.67	\$ 998,825.63
2027	133,639.59	93,076.01	53,858.36	110,589.58	59,540.12	87,183.21	61,415.73	48,165.16	26,222.43	29,038.46	41,072.86	77,273.12	\$ 821,074.63
2028	119,173.62	89,976.31	64,282.77	106,080.85	42,559.03	45,029.46	29,023.27	30,714.85	24,029.80	33,076.12	51,187.24	83,839.21	\$ 718,972.53
2029	121,679.31	101,762.92	86,035.92	129,486.64	59,602.02	62,599.78	59,675.73	65,490.17	59,138.27	64,357.36	90,678.82	111,848.32	\$1,014,355.26
2030	133,182.15	92,358.95	64,704.08	113,541.81	64,974.05	91,982.43	61,399.94	57,808.88	34,438.24	37,607.40	51,727.45	83,414.83	\$ 887,140.21
2031	107,415.71	93,735.40											\$ 201,151.11
2032	121,739.85	116,576.99											\$ 238,316.84
2033	195,398.64	108,921.98											\$ 244,320.62

\*Jan 2004 went to 6%  
 \*\*October 2009 went to 6%  
 \*\*\*First collections in July 2006

Blowing Rock  
 Boone  
 Watauga County



Year	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Totals
1999	33,426.07	53,605.11	49,082.37	34,262.59	47,629.65	20,691.79	19,879.66	14,260.17	12,858.68	11,307.16	15,887.21	24,136.17	\$ 337,026.63
	56,207.70	42,718.16	33,367.50	50,420.80	24,342.79	25,549.88	26,297.10	27,365.42	19,631.48	22,950.89	30,083.06	37,876.76	\$ 396,811.54
2000	36,717.82	60,697.01	45,197.20	33,930.90	45,226.40	19,325.92	22,217.35	13,934.44	13,717.15	10,805.99	12,868.52	21,118.15	\$ 335,756.85
	55,152.34	46,307.14	38,345.44	51,364.62	23,782.07	30,410.79	31,186.49	30,289.82	20,397.70	21,395.11	28,273.36	39,828.82	\$ 416,733.70
2001	33,693.61	53,726.50	47,149.39	30,661.53	46,518.39	20,296.40	18,134.27	11,476.27	12,671.66	11,222.12	12,715.96	21,681.40	\$ 319,947.50
	55,934.46	46,873.44	34,901.83	55,741.35	26,572.28	26,425.93	31,433.38	32,696.79	24,781.74	25,419.92	31,850.05	40,566.55	\$ 433,197.72
2002	35,529.42	54,188.40	49,599.72	26,773.78	43,128.09	20,787.78	16,820.72	16,420.77	10,812.84	10,653.40	20,654.56	28,706.66	\$ 334,076.14
	60,911.52	52,777.19	35,532.56	54,712.92	29,634.38	30,279.25	37,404.64	30,629.28	27,312.67	22,467.30	30,773.49	36,589.54	\$ 449,024.74
2003	56,446.26	46,218.95	25,445.33	45,549.60	20,948.42	20,044.46	25,817.35	20,161.20	23,399.54	39,361.92	39,411.92	69,197.57	\$ 432,002.52
	60,298.00	50,962.98	34,236.30	58,150.01	30,153.56	33,720.32	35,706.85	36,448.84	25,319.75	25,682.67	32,799.45	45,893.70	\$ 469,372.43
2004	108,049.44	78,433.56	51,393.64	92,739.07	39,699.55	45,350.35	24,270.10	28,516.15	21,160.12	26,433.79	42,345.87	69,270.16	\$ 627,661.80
	64,541.86	47,448.51	34,077.41	59,846.80	27,648.77	33,811.39	28,580.79	37,287.74	26,663.99	34,154.83	31,030.00	49,656.42	\$ 474,748.51
2005	113,063.44	91,263.12	63,029.55	101,704.60	48,236.72	52,011.03	31,285.00	36,908.06	29,911.54	35,645.29	51,122.12	82,149.17	\$ 736,329.64
	58,697.84	54,414.19	38,202.89	55,382.18	32,601.32	36,404.12	33,683.49	40,307.89	30,291.46	27,984.62	33,121.99	54,588.31	\$ 495,680.30
2006	120,889.02	99,291.93	79,181.30	107,943.97	50,879.85	55,420.32	31,335.11	37,531.32	29,435.55	37,166.79	56,637.83	90,201.81	\$ 795,914.80
	61,771.86	55,782.28	47,694.90	60,693.75	34,397.34	38,915.72	32,370.51	39,309.54	32,360.25	31,836.21	40,015.44	58,186.19	\$ 533,333.99
	98,722.04	75,180.98	58,824.05	92,706.53	52,673.99	80,063.48	49,632.33	48,692.79	24,933.99	31,383.76	43,056.80	72,422.32	\$ 728,293.06
2007	114,224.85	110,457.88	80,870.39	109,896.31	59,030.00	48,586.27	38,506.48	36,295.22	29,336.94	31,027.15	52,229.41	70,080.86	\$ 780,541.76
	60,648.36	64,133.62	48,287.67	65,322.55	40,487.67	38,718.11	39,281.79	43,701.25	31,274.93	30,639.22	38,566.26	53,110.74	\$ 554,172.17
	110,838.40	99,859.19	59,507.63	97,802.70	69,670.45	83,090.14	55,520.98	59,116.81	32,934.23	27,323.63	50,465.39	70,074.86	\$ 816,204.41
2008	111,461.45	104,287.66	56,990.66	102,356.95	47,704.66	40,350.89	37,999.48	27,945.33	17,050.58	27,595.26	42,923.70	63,017.66	\$ 679,684.28
	61,317.05	63,953.04	41,615.00	68,196.86	34,510.11	36,713.60	39,892.00	37,147.00	26,212.62	29,896.70	35,085.79	51,316.00	\$ 525,855.77
	121,620.82	103,051.49	52,092.94	98,971.94	68,375.52	81,345.85	54,845.36	49,735.68	16,665.87	26,951.94	41,815.06	62,837.02	\$ 778,309.49
2009	99,353.76	78,133.43	52,907.25	92,038.43	41,149.73	44,052.46	31,229.92	24,841.76	16,719.75	30,389.13	40,948.56	74,004.48	\$ 625,768.66
	59,722.46	54,259.28	42,339.19	132,508.11	66,927.72	83,276.00	73,736.54	73,015.95	64,623.26	63,695.25	76,073.53	105,259.98	\$ 895,437.27
	108,977.15	84,495.10	51,097.22	92,273.50	58,827.09	73,783.88	60,170.04	46,869.99	27,193.49	30,013.12	38,878.89	56,144.88	\$ 728,724.15
2010	115,976.02	90,968.67	62,746.64	110,462.60	46,076.08	48,646.35	32,574.26	27,536.06	21,737.93	30,279.41	45,012.96	68,215.21	\$ 700,232.19
	125,492.50	105,980.34	81,385.95	140,980.21	59,358.13	79,508.35	66,435.77	62,098.35	57,960.12	57,524.10	66,449.14	95,652.67	\$ 998,825.63
	133,639.59	93,076.01	53,858.36	110,589.58	59,540.12	87,183.21	61,415.73	48,165.16	26,222.43	29,038.46	41,072.86	77,273.12	\$ 821,074.63
2011	119,179.62	89,976.31	64,282.77	106,080.85	42,559.03	45,029.46	29,023.27	30,714.85	24,029.80	33,076.12	51,187.24	83,839.21	\$ 718,972.53
	121,679.31	101,762.92	88,035.92	129,486.64	59,602.02	62,599.78	59,675.73	65,490.17	59,138.27	64,357.36	90,678.82	111,848.32	\$1,014,355.26
	133,182.15	92,358.95	64,704.08	113,541.81	64,974.05	91,982.43	61,399.94	57,808.88	34,438.24	37,607.40	51,727.45	83,414.83	\$ 887,140.21

\*Jan 2004 went to 6%  
 \*\*October 2009 went to 6%  
 \*\*\*First collections in July 2006

Search...

[About Us](#) [Programs & Services](#) [Partner Opportunities](#) [VisitNC.com](#) [Research](#) [Events](#) [Resources](#)

You are here: [Home](#) » [Research](#) » [Economic Impact](#) » [TEIM](#)

**TEIM**

[NC Fast Facts](#)

[Economic Impact](#)

[TSA](#)

[TEIM](#)

[Wine & Grape](#)

[Visitation Research](#)

[Lodging Reports](#)

[International Research](#)

[Tax Data](#)

[Archives](#)

**Quick Links**

[VisitNC.com](#)

[NCFilm.com](#)

[VisitNCWine.com](#)

[RetireNC.com](#)

[SportsNC.com](#)

[Certified Retirement Communities](#)

[VisitNCFarms.com](#)

[N.C. Zoological Park](#)

[N.C. Aquariums](#)

[NC.gov](#)

[N.C. Parks](#)

[N.C. Historic Sites](#)

[N.C. Arts Council](#)

**Travel Economic Impact Model**

These county-by-county travel economic impact statistics are prepared annually by the Research Department of the US Travel Association for the N.C. Department of Commerce's Division of Tourism, Film and Sports Development.

In addition to the direct visitor spending estimates for all 100 NC counties, county level employment, payroll and tax revenues as a result of direct visitor spending are included.

This research was gathered using the **Travel Economic Impact Model (TEIM)**.

To use this information in a press release or reference it in any way, the name of the study is "The Economic Impact Of Travel On North Carolina Counties." The credit line should read: "This study was prepared for the North Carolina Division of Tourism, Film and Sports Development by the US Travel Association."

**Watauga County Statistics for year 2011**

Year	Revenues \$(millions)	Change from previous year
2011	\$197.56	4.11 %
2010	\$189.77	5.86 %
2009	\$179.27	-5.53 %
2008	\$189.76	-0.73 %
2007	\$191.15	6.70 %
2006	\$179.14	9.18 %
2005	\$164.08	3.10 %
2004	\$159.14	4.95 %
2003	\$151.64	-2.78 %
2002	\$155.98	6.17 %
2001	\$146.92	-2.89 %
2000	\$151.29	5.33 %
1999	\$143.64	10.30 %
1998	\$130.23	7.92 %
1997	\$120.67	1.79 %
1996	\$118.55	5.12 %
1995	\$112.78	8.79 %
1994	\$103.67	6.42 %
1993	\$97.42	6.53 %
1992	\$91.45	8.87 %
1991	\$84.00	2.46 %

- Domestic tourism in Watauga County generated an economic impact of \$197.56 million in 2011. This was a 4.11 % change from 2010.

- In 2011, Watauga County ranked 19 in travel impact among North Carolina's 100 Counties.

- More than 2,400 jobs in Watauga County were directly attributable to travel and tourism.

- Travel generated a \$42.17 million payroll in 2011.

- State and local tax revenues from travel to Watauga County amounted to \$18.16 million. This represents a \$353.77 tax saving to each county resident.

- Area attractions include the Blue Ridge Parkway, "Horn in the West" outdoor drama, Hickory Ridge Homestead, Mast General Store, Beech Mountain Resort, Mystery Hill, museums devoted to Appalachian culture and heritage, Blowing Rock, Tweetsie Railroad and Appalachian Ski Mountain.

[Back](#)

Select another Year or County :

- Title**
- [TEIM Methodology](#)
  - [2011 County Level Visitor Expenditures](#)
  - [2011 Economic Development Region Visitor Expenditures](#)
  - [2011 County Level Visitor Expenditures by Total Expenditures](#)
  - [2011 County Level Visitor Expenditures by Percent Change from 2010](#)

Blank Page

**AGENDA ITEM 6:**

**WATAUGA COUNTY LIBRARY UPDATE**

**MANAGER’S COMMENTS:**

Monica Caruso, County Library, will discuss the Library Services and Technology Act (LSTA) Outreach Grant that would allow the library to lend E-readers to elder care facilities. Ms. Caruso will follow up next month to do a short power point presentation about the project.

The discussion is for information only, therefore no action is required.

Blank Page

**AGENDA ITEM 7:**

**FINANCE MATTERS**

*A. Smoky Mountain Center Quarterly Financial Report*

**MANAGER'S COMMENTS:**

Ms. Margaret Pierce, Finance Director, will present the Smoky Mountain Center Quarterly Financial Report as required by Statute.

No action is required.



## WATAUGA COUNTY FINANCE OFFICE

814 West King St., Room 216 - Boone, NC 28607 - Phone (828) 265-8007 Fax (828) 265-8006

### MEMORANDUM

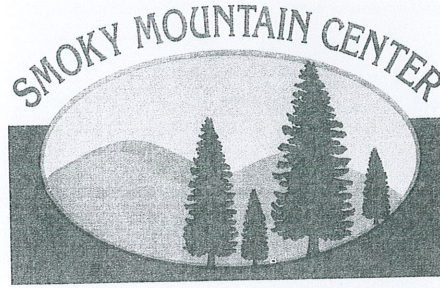
**TO:** Deron Geouque, County Manager  
**FROM:** Margaret Pierce, Finance Director *MP*  
**SUBJECT:** Smoky Mountain Center Quarterly Financial Report  
**DATE:** October 8, 2012

Attached is a copy of the fiscal monitoring report (FMR) from Smoky Mountain Center for the quarter ended September 30, 2012. Also included is a copy of their unaudited fiscal monitoring report for the fiscal year ended June 30, 2012. These FMRs were received on October 8, 2012 and are provided by Smoky Mountain Center to comply with the G.S. 122C-117(c).

excerpt from G.S. 122C-117(c)

(c) Within 30 days of the end of each quarter of the fiscal year, the area director and finance officer of the area authority shall provide the quarterly report of the area authority to the county finance officer. The county finance officer shall provide the quarterly report to the board of county commissioners at the next regularly scheduled meeting of the board. The clerk of the board of commissioners shall notify the area director and the county finance officer if the quarterly report required by this subsection has not been submitted within the required period of time. This information shall be presented in a format prescribed by the county. At least twice a year, this information shall be presented in person and shall be read into the minutes of the meeting at which it is presented. In addition, the area director or finance officer of the area authority shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

Smoky Mountain Center  
44 Bonnie Lane  
Sylva, NC 28779



Area Administrative Office  
828-586-5501  
[www.smokymountaincenter.org](http://www.smokymountaincenter.org)

*"Meeting community needs... one person at a time."*

September 18, 2012

Dear County Finance Officer:

Enclosed you will find Smoky Mountain Center's unaudited fiscal monitoring report (FMR) for the fiscal year ended June 30, 2012, and the initial Budget for Fiscal year 2012-2013.

To remind all Finance Officers: S.L. 2006-142 amended G.S. 122C-117(c) to require the Area Director and Area Authority Finance Officer to submit quarterly finance reports to the County Finance Officer, instead of submitting to each member of each board of County Commissioners participating in the Area Authority. The County Finance Officer is then to submit the report to the Board of County Commissioners at its next regularly scheduled meeting.

This FMR is the financial report intended to be provided to comply with the general statutes.

If you have any questions regarding the enclosed reports, please e-mail Lisa Slusher, Finance Officer, at: [Lisa.Slusher@smokymountaincenter.com](mailto:Lisa.Slusher@smokymountaincenter.com); or Jason Ainsley, at: [Jason.Ainsley@smokymountaincenter.com](mailto:Jason.Ainsley@smokymountaincenter.com).

Sincerely,



Sherri L. Hayes, BS  
Financial Analyst  
Smoky Mountain Center

Enclosure



Quarterly Fiscal Monitoring Report - DMHDDSAS

101612 BCC Meeting

LME / MCO NAME:

SMOKY MOUNTAIN CENTER

FOR THE PERIOD ENDING:

6/30/2012

# of month in the fiscal year (July = 1, August = 2, . . . , June = 12) =====>

12

UN-AUDITED

1. REPORT OF BUDGET VS. ACTUAL

Basis of Accounting:  
(check one)

ITEM	Cash Accrual	PRIOR YEAR		CURRENT YEAR		
		(1) 2010-2011 BUDGET	(2) ACTUAL	(3) BUDGET	(4) ACTUAL YR-TO-DATE	(5) BALANCE (Col. 3-4)
REVENUE	X					
Service Fees from LME-Delivered Services		29,776	75,942	-	(1,601)	1,601 #DIV/0!
Medicaid Pass Thru		9,100,000	8,620,936	8,435,000	8,459,183	(24,183) 100.29%
Interest Earned		82,500	47,214	10,000	22,485	(12,485) 224.85%
Rental Income		-	-	-	-	- #DIV/0!
Budgeted Fund Balance * (Detail in Item 4, below)		550,000	-	5,738,620	-	5,738,620 0.00%
Other Local		519,660	545,885	868,161	814,180	53,981 93.78%
<b>Total Local Funds</b>		<b>10,281,936</b>	<b>9,289,977</b>	<b>15,051,781</b>	<b>9,294,247</b>	<b>5,757,534</b> <b>61.75%</b>
County Appropriations (by county, includes ABC Funds):						
Alexander County		38,825	38,079	43,225	39,535	3,690 91.46%
Caldwell County		120,138	118,777	113,538	118,527	(4,989) 104.39%
McDowell County		67,856	67,856	67,856	67,856	- 100.00%
Cherokee County		75,000	75,000	75,000	75,000	- 100.00%
Clay County		10,000	10,000	10,000	10,000	- 100.00%
Graham County		6,000	6,000	6,000	6,000	- 100.00%
Haywood County		115,000	116,267	116,775	115,036	1,739 98.51%
Jackson County		123,081	123,081	123,081	123,081	- 100.00%
Macon County		106,623	106,623	106,623	106,623	- 100.00%
Swain County		30,000	30,932	30,125	30,934	(809) 102.68%
Ashe County		189,566	189,566	189,566	189,566	- 100.00%
Avery County		92,400	92,400	92,400	92,400	- 100.00%
Alleghany County		115,483	115,483	115,483	115,483	- 100.00%
Watauga County		221,194	221,194	221,194	221,194	- 100.00%
Wilkes County		259,200	259,200	259,200	259,200	- 100.00%
Special Appropriations		-	-	1,119,913	1,119,913	- #DIV/0!
<b>Total County Funds</b>		<b>1,570,366</b>	<b>1,570,458</b>	<b>2,689,979</b>	<b>2,690,348</b>	<b>(369)</b> <b>100.01%</b>
LME Systems Admin. Funds (Cost Model)		7,242,715	7,242,715	7,122,715	7,122,715	- 100.00%
DMH/DD/SAS Administrative Funds (% basis)		-	-	-	-	- #DIV/0!
DMH/DD/SAS Risk Reserve Funds (% basis)		-	-	-	-	- #DIV/0!
DMH/DD/SAS Services Funding		30,279,877	29,482,781	27,295,503	26,156,372	1,139,131 95.83%
DMA Capitation Funding		-	-	-	-	- #DIV/0!
DMA Risk Reserve Funding		-	-	-	-	- #DIV/0!
All Other State/Federal Funds		1,793	1,793	1,793	1,450	343 80.87%
<b>Total State and Federal Funds</b>		<b>37,524,385</b>	<b>36,727,289</b>	<b>34,420,011</b>	<b>33,280,537</b>	<b>1,139,474</b> <b>96.69%</b>
<b>TOTAL REVENUE</b>		<b>49,376,687</b>	<b>47,587,724</b>	<b>52,161,771</b>	<b>45,265,132</b>	<b>6,896,639</b> <b>86.78%</b>

EXPENDITURES:						
System Management/Administration/Care Coordination		7,242,715	7,139,760	7,582,715	7,377,494	205,221 97.29%
LME Provided Services		1,183,444	1,101,934	1,430,044	1,264,110	165,934 88.40%
Provider Payments		38,585,933	35,793,334	39,350,851	37,354,387	1,996,464 94.93%
Merger Expenses		-	-	-	-	- #DIV/0!
MCO Start-Up Expenses		375,000	360,961	2,770,000	2,092,716	2,092,716 75.55%
All Other		1,989,595	1,928,698	1,028,161	715,832	312,329 69.62%
<b>TOTAL EXPENDITURES</b>		<b>49,376,687</b>	<b>46,324,687</b>	<b>52,161,771</b>	<b>48,804,539</b>	<b>4,772,664</b> <b>93.56%</b>
<b>CHANGE IN CASH BALANCE</b>			<b>1,263,037</b>		<b>(3,539,407)</b>	
Beginning Unrestricted Fund Balance			3,806,910		4,220,978	
Balance in DMH/DD/SAS Risk Reserve			-		-	
Balance in DMA Risk Reserve			-		-	
Current Estimated Unrestricted Fund Balance and percent of budgeted expenditures		8.55%	4,220,978	3.06%	1,597,394	

2. CURRENT CASH POSITION	(1)	(2)	(3)	(4)	(5)	Allowance for Uncollectible Receivables
	30 DAYS	60 DAYS	90 DAYS	OVER 90 DAYS	TOTAL	
Accounts Payable (Accrual Method)	1,873,858	31,780	5,630	169,119	\$ 2,080,386	
Account Receivable (Accrual Method)	2,899,609	2,293,318	-	138,824	\$ 5,331,752	\$ -
<b>Current Cash in Bank</b>	<b>11,861,490</b>					

3. SERVICE EXCEPTIONS ( Provided Based on System Capability)						
Services authorized but not billed	716,720					

4. DETAIL ON BUDGETED FUND BALANCE						
	Budgeted	Year-to-Date	Balance	%		
Payments to Providers	2,308,620	2,308,620	-	100.00%		
MCO Start-up Expense	2,770,000	2,092,716	677,284	75.55%		
LME Merger Expense	-	-	-	#DIV/0!		
Other (List): Legal Fees	200,000	147,989	52,011	73.99%		
Other (List): Facility Purchase	460,000	459,635	365	99.92%		

\* We certify (a) this report to contain accurate and complete information, (b) explanations are provided for any expenditure item with an annualized expenditure rate greater than 110% and for any revenue item with an annualized receipt rate of less than 90%, and (c) a copy of this report has been provided to each county manager in the catchment area.

LME / MCO Director: *[Signature]* Date: *9/7/12* LME/MCO Finance Officer: *[Signature]* Date: *9/6/12* Area Board Chair: *[Signature]* Date: *9-27-12* 56

**Division of Mental Health, Developmental Disabilities & Substance Abuse Services**

**Quarterly Fiscal Monitoring Report - Explanation of Revenue and Expenditure Variances**

enter LME name

**SMOKY MOUNTAIN CENTER**

Local Management Entity

for the period ending:

**June 30, 2012**

These are un-audited, preliminary figures.

<b>ITEM</b>	<b>Explanation</b>
<b>Revenues</b>	
Service Fees from LME Delivered	No budget for these revenues as SMC no longer provides billable services. Small dollars are due to run out/clean up of Accounts Receivable.
Services Funding	Significantly under budget due to Over Estimating 3 Way Contract Amount
County Funds Special Appropriations	This line represents a special appropriation from our Northern Region Counties for New River that was not part of the County's maintenance of effort.
Contribution amounts:	
Ashe County	181,998
Avery County	178,069
Alleghany County	71,232
Wilkes County	688,614
	<u>1,119,913</u>

**Expenditures**

No reporting Required.

**Fund Balance**

Unrestricted Fund Balance is prior to year end adjustments for use of Board Designated fund balance, so Unrestricted Fund Balance amount will be higher.

**Quarterly Fiscal Monitoring Report - DMHDDSAS**

LME / MCO NAME:

SMOKY MOUNTAIN CENTER

FOR THE PERIOD ENDING:

101612 BCC Meeting  
FY 2012/2013

# of month in the fiscal year (July = 1, August = 2, . . . , June = 12) =====>

**1. REPORT OF BUDGET VS. ACTUAL**

ITEM	Cash Accrual	PRIOR YEAR		CURRENT YEAR			
		(1)	(2)	(3)	(4)	(5)	(6)
		BUDGET	ACTUAL	BUDGET	ACTUAL YR-TO-DATE	BALANCE (Col. 3-4)	ANNUALIZED PERCENTAGE **
<b>REVENUE</b>							
Service Fees from LME-Delivered Services	X	-	(1,601)	-	-	#DIV/0!	
Medicaid Pass Thru		8,435,000	8,459,183	-	-	#DIV/0!	
Interest Earned		10,000	22,485	33,000	33,000	#DIV/0!	
Rental Income		-	-	-	-	#DIV/0!	
Budgeted Fund Balance * (Detail in Item 4, below)		5,738,620	-	50,000	-	#DIV/0!	
Other Local		868,161	814,180	788,204	788,204	#DIV/0!	
<b>Total Local Funds</b>		<b>15,051,781</b>	<b>9,294,247</b>	<b>871,204</b>	<b>-</b>	<b>871,204</b>	
<b>County Appropriations (by county, includes ABC Funds):</b>							
Alexander County		43,225	39,535	43,225	43,225	#DIV/0!	
Caldwell County		113,538	118,527	113,538	113,538	#DIV/0!	
McDowell County		67,856	67,856	67,856	67,856	#DIV/0!	
Cherokee County		75,000	75,000	75,000	75,000	#DIV/0!	
Clay County		10,000	10,000	10,000	10,000	#DIV/0!	
Graham County		6,000	6,000	6,000	6,000	#DIV/0!	
Haywood County		116,775	115,036	116,775	116,775	#DIV/0!	
Jackson County		123,081	123,081	123,081	123,081	#DIV/0!	
Macon County		106,623	106,623	106,623	106,623	#DIV/0!	
Swain County		30,125	30,934	30,125	30,125	#DIV/0!	
Ashe County		189,566	189,566	189,566	189,566	#DIV/0!	
Avery County		92,400	92,400	92,400	92,400	#DIV/0!	
Alleghany County		115,483	115,483	115,483	115,483	#DIV/0!	
Watauga County		221,194	221,194	221,194	221,194	#DIV/0!	
Wilkes County		259,200	259,200	259,200	259,200	#DIV/0!	
Special Appropriations County		1,119,913	1,119,913	-	-	#DIV/0!	
<b>Total County Funds</b>		<b>2,689,979</b>	<b>2,690,348</b>	<b>1,570,066</b>	<b>-</b>	<b>1,570,066</b>	
LME Systems Admin. Funds (Cost Model)		7,122,715	7,122,715	-	-	#DIV/0!	
DMH/DD/SAS Administrative Funds (% basis)		-	-	3,329,158	-	#DIV/0!	
DMH/DD/SAS Risk Reserve Funds (% basis)		-	-	416,145	-	#DIV/0!	
DMH/DD/SAS Services Funding		27,295,503	26,156,372	27,741,192	27,741,192	#DIV/0!	
DMA Capitation Funding		-	-	118,438,442	118,438,442	#DIV/0!	
DMA Risk Reserve Funding		-	-	2,406,907	-	#DIV/0!	
All Other State/Federal Funds		1,793	1,450	1,793	1,793	#DIV/0!	
<b>Total State and Federal Funds</b>		<b>34,420,011</b>	<b>33,280,537</b>	<b>152,333,637</b>	<b>-</b>	<b>146,181,427</b>	
<b>TOTAL REVENUE</b>		<b>52,161,771</b>	<b>45,265,132</b>	<b>154,774,907</b>	<b>-</b>	<b>148,622,697</b>	
<b>EXPENDITURES:</b>							
System Management/Administration/Care Coordination		7,582,715	7,377,494	22,074,015	22,074,015	#DIV/0!	
LME Provided Services		1,430,044	1,264,110	1,511,550	1,511,550	#DIV/0!	
Provider Payments		39,350,851	37,354,387	130,595,048	130,595,048	#DIV/0!	
Merger Expenses		-	-	-	-	#DIV/0!	
MCO Start-Up Expenses		2,770,000	2,092,716	-	2,092,716	#DIV/0!	
All Other		1,028,161	715,832	594,294	594,294	#DIV/0!	
<b>TOTAL EXPENDITURES</b>		<b>52,161,771</b>	<b>48,804,539</b>	<b>154,774,907</b>	<b>-</b>	<b>156,867,623</b>	
<b>CHANGE IN CASH BALANCE</b>			<b>(3,539,407)</b>				
Beginning Unrestricted Fund Balance			4,220,978	1,597,394			
Balance in DMH/DD/SAS Risk Reserve			-	416,145			
Balance in DMA Risk Reserve			-	2,406,907			
<b>Current Estimated Unrestricted Fund Balance and percent of budgeted expenditures</b>		<b>3.06%</b>	<b>1,597,394</b>	<b>1.03%</b>	<b>1,597,394</b>		
<b>2. CURRENT CASH POSITION</b>							
		(1)	(2)	(3)	(4)	(5)	
		30 DAYS	60 DAYS	90 DAYS	OVER 90 DAYS	TOTAL	
Accounts Payable (Accrual Method)							
Account Receivable (Accrual Method)						\$ -	
<b>Current Cash in Bank</b>							
<b>3. SERVICE EXCEPTIONS ( Provided Based on System Capability)</b>							
Services authorized but not billed							
<b>4. DETAIL ON BUDGETED FUND BALANCE</b>							
				Budgeted	Year-to-Date	Balance	
Payments to Providers						-	
MCO Start-up Expense						-	
LME Merger Expense						-	
Other (List): Legal Fees				50,000		50,000	
Other (List):						-	

\* We certify (a) this report to contain accurate and complete information, (b) explanations are provided for any expenditure item with an annualized expenditure rate greater than 110% and for any revenue item with an annualized receipt rate of less than 90%, and (c) a copy of this report has been provided to each county manager in the catchment area.

LME / MCO Director: \_\_\_\_\_ Date: 9/2/12 LME/MCO Finance Officer: \_\_\_\_\_ Date: 9/19/12 Area Board Chair: \_\_\_\_\_ Date: 9-27-12

cc: County Manager for each county within the catchment area.



Blank Page

**AGENDA ITEM 7:**

**FINANCE MATTERS**

***B. Proposed Inmate Insurance Contract Renewal***

**MANAGER'S COMMENTS:**

Ms. Margaret Pierce, Finance Director, will present the contract renewal with Insurance Management Consultants for catastrophic insurance for inmates housed in the County jail. The insurance shields the County from large medical claims that occur while inmates are being housed in the Watauga County Jail.

Board action is requested to approve the contract with Insurance Management Consultants, Inc. for catastrophic insurance coverage in the amount of \$40,589. Adequate funds are available to cover the contracted cost.



## WATAUGA COUNTY FINANCE OFFICE

---

814 West King St., Room 216 - Boone, NC 28607 - Phone (828) 265-8007 Fax (828) 265-8006

### MEMORANDUM

**TO:** Deron Geouque, County Manager  
**FROM:** Margaret Pierce, Finance Director  
**SUBJECT:** Inmate Catastrophic Insurance Contract  
**DATE:** October 9, 2012

Attached please find information on the renewal contract from Insurance Management Consultants, Inc for the insurance policy for large medical claims incurred on behalf of inmates in the County's care. The renewal amount is \$40,589 with the \$10,000 deductible and includes increased daily average maximums. This is an increase of \$7,860 from last year's premium and funds are available in the current jail budget for this contract. I recommend acceptance of the contract terms.

Board approval is requested for the contract.

## CATASTROPHIC INMATE MEDICAL REIMBURSEMENT INSURANCE

Name of Insured: Watauga County (NC)  
 Date: October 4, 2012  
 Term of Contract: 1 Year, December 1, 2012– December 1, 2013  
 Insurance Carrier: United HealthCare-OptumHealth (Unimerica Insurance Company)  
 Coverage: Off-Site Inpatient Hospital Services and Outpatient Surgical and attending Physician Services

**The maximum eligible expense shall be limited to the lesser of the amount paid or up to an "Average Daily Maximum" (ADM) per admission of \$20,000 ADM for the first three days and \$12,000 ADM thereafter.**

<u>COVERAGE &amp; PREMIUM BASIS:</u>	<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>
Limit of Coverage Per Inmate:	\$250,000	\$250,000	\$250,000
Specific Deductible Per Inmate:	\$10,000	\$15,000	\$20,000
Current Inmate Population:	93	93	93
Rate Per Inmate, Per Month:	\$36.37	\$33.28	\$30.38
<b>Total Estimated Annual Premium</b>	<b>\$40,589</b>	<b>\$37,140</b>	<b>\$33,904</b>

### EXCLUSIONS OR LIMITATIONS: (For a complete list refer to policy)

- All charges for which government authorities are not legally obligated to pay
- All charges in connection with the rehab portion of a substance abuse claim
- All charges in connection with the rehab portion of a mental/nervous claim
- All charges in connection with security or guarding an inmate
- All charges which are incurred after the release from custody
- All charges paid outside the terms of the Plan Document

### ASSUMPTIONS AND CONDITIONS:

- This quote is an estimate based on data provided and subject to a completed application
- This quotation contains general information and is not a contract or binder of insurance
- Eligible claims are those occurring in 12 months and paid in 18 months
- Large claim updates may be required
- The Company reserves the right to audit the inmate count
- This proposal directly reflects administration over-ride 5%
- This proposal directly reflects commission of 17% (Hunt/Willis 7%; IMCI 10%)
- AIDS/HIV and Pregnancy claims included
- No pre-existing conditions exclusions
- Prior to Booking claims covered
- A.M. Best Rating: A XV
- Quotes valid for 30 days

Hunt Insurance Group, LLC  
 Willis North America  
 3606 Maclay Boulevard South  
 Tallahassee, FL 32312  
 (800) 763-4868 • (850) 385-2124 Fax  
[www.inmatemedicalinsurance.com](http://www.inmatemedicalinsurance.com)

Insurance Management Consultants, Inc.  
 PO Box 4177  
 Mooresville, NC 28117  
 (800) 317-6878 • (704) 799-2955



Blank Page

**AGENDA ITEM 8:****PUBLIC COMMENT PERIOD TO ALLOW CITIZEN COMMENT REGARDING A RECENT REQUEST TO RENAME A PORTION OF NC 194 SCENIC BYWAY IN VALLE CRUCIS IN HONOR OF MR. ED YATES****MANAGER'S COMMENTS:**

The naming of NC 194 Scenic Byway from Valle Crucis to the Avery County line in honor of Ed Yates has been placed on the agenda for public comment to meet the requirements as set forth by the North Carolina Department of Transportation.

If there is no public opposition and the Board wishes to proceed forward the enclosed resolution would need to be adopted and then staff would submit background information on the nominee, description of what is requested to be named, and documentation of public support to NCDOT Staff. NCDOT staff would review the information to ensure a previous facility has not been named and confirm that there is not any local opposition. After review the NCDOT staff will forward to the Road and Bridge Naming Committee and Board of Transportation for action. A Board member must endorse the request and present to the Committee and Board. A naming request reviewed and recommended by the Committee will be held for at least one month before being considered by the full Board.

Staff seeks direction from the Board.

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

**DRAFT**

**RESOLUTION SUPPORTING THE NAMING OF A PORTION OF  
NC 194 MISSION CROSSING SCENIC BYWAY IN HONOR OF ED YATES**

**WHEREAS**, the Ed Yates family has lived in Watauga County since the 1870's with strong ties to the community; and

**WHEREAS**, Ed Yates had a special interest in machinery and electricity and learned to operate a steam shovel; and

**WHEREAS**, the North Carolina Department of Transportation recognized Mr. Yates' ability with equipment and hired him to build roads for the State of North Carolina and the Citizens of Watauga County; and

**WHEREAS**, Mr. Yates was instrumental in the construction of NC 194 from Todd to Elk Park, NC 88 from Warrentsville, NC, to Trade, TN, and US 321 from Boone to Blowing Rock; and

**WHEREAS**, Ed Yates was a community leader and, in many ways, ahead of his time by understanding machinery and how new inventions such as the automobile and electricity could have a significant improvement on the lives of those in the community; and

**WHEREAS**, Blue Ridge Electric Membership Corporation could not have had a better advocate than Mr. Yates in promoting the benefits of electricity; and

**WHEREAS**, Mr. Yates was the 10,000<sup>th</sup> member of Blue Ridge Electric Membership Corporation; and

**WHEREAS**, upon his retirement from the North Carolina Department of Transportation, Ed Yates operated his farm and continued his service to the community by loaning equipment and assistance to his neighbors.

**NOW, THEREFORE, BE IT RESOLVED** that the Watauga County Board of Commissioners supports the naming of a 4.2 mile section of NC 194 Mission Crossing Scenic Byway from Valle Crucis to Hade Smith Road Intersection in Honor of Ed Yates.

**ADOPTED** this the 18<sup>th</sup> day of September, 2012.

ATTEST:

---

Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

---

Anita J. Fogle, Clerk to the Board

(SEAL)

Ralph Yates  
335 Cool Woods Dr  
Boone, NC 28607  
Phone: 828-264-0984

Mr. Nathan Miller, Chairman  
Watauga County Commissioners  
Boone, NC 28607

Date July, 21, 2012

Subject: The naming of NC 194 Scenic Byway from Vallie Crucis to the Avery County line in honor of Ed Yates (posthumously).

Mr. Chairman, this is a request to the commission, asking that they consider naming NC 194 Scenic Byway (posthumously) in honor of Ed Yates of the Matney/Cool Springs Community.

The Yates's have been land owners in Watauga County since around 1870. Ed Yates's Grandfather Alford Yates a Civil War Veteran who enlisted in the Confederate Army on June 12, 1861. Alford Yates was engaged in the battle for Gettysburg Pa. Other battles was the "Bloody Angle," the "Wilderness campaign" and finally the battle at Spotsylvania Courthouse, where more than 10,000 men on both sides had been killed, wounded, or captured. Alf Yates was one of the Confederate soldiers taken as a prisoner of war that day. He was taken to camp Point Lookout a stretch of sand thrusting into the Chesapeake Bay. The death rate at Point Lookout was reported at 30%. One option offered the prisoners' at Point Lookout was to pledge allegiance to the Union and go fight the Plains Indians in the Dakota Territory. Alf Yates took this option and records show that he was present in July 1865 at Fort Rice, ND . Alf Yates returned to his home on Reedy's Branch in Wilkes County until 1869. He then moved to Stony Fork in Watauga County and in 1875 moved to the Cool Springs Community in the Shawneehaw Twp. They settled on a 231 acre tract on the water of Laurel Fork on the east end of Beech Mountain. He built a ten room two story house on the property that is still in the Yates family today. All of the Yates's were farmers and two of the brothers Ed & Calvin had large farms in the Cool Springs Community and two Coy & Fred owned large farms in the Vallie Crucus area. These farms are still in the family's today.


Ed Yates was interested in machinery and eventually learned to operate a steam shovel and build roads for the NCDOT. These were powerful machines powered by steam and one shovel was assigned to several counties. From all reports Ed was a gifted operator and road builder. Some of the roads he helped build was NC 194 from Todd to Elk Park. NC 88 from Warrensville to Trade. US 321 from Boone to Blowing Rock. On the NC 194 project The Big S as it is know by locals has always been a problem , with many

tractors hung up on the Big S taking hours to untangle. When NC 194 was being built Ed told the engineer that he could lay out and build a better road if he would leave the Big S out and let him gradually bring the road on around and up the mountain. The engineer told him that the Big S would be a huge tourist attraction as two bus lines made daily runs from Charlotte to Johnson City TN. Keep in mind that these roads were built before bulldozers, motor graders, track holes, or large dump trucks came on the scene. Horse drawn drags, sleds, rakes and shovels was the tools of choice.

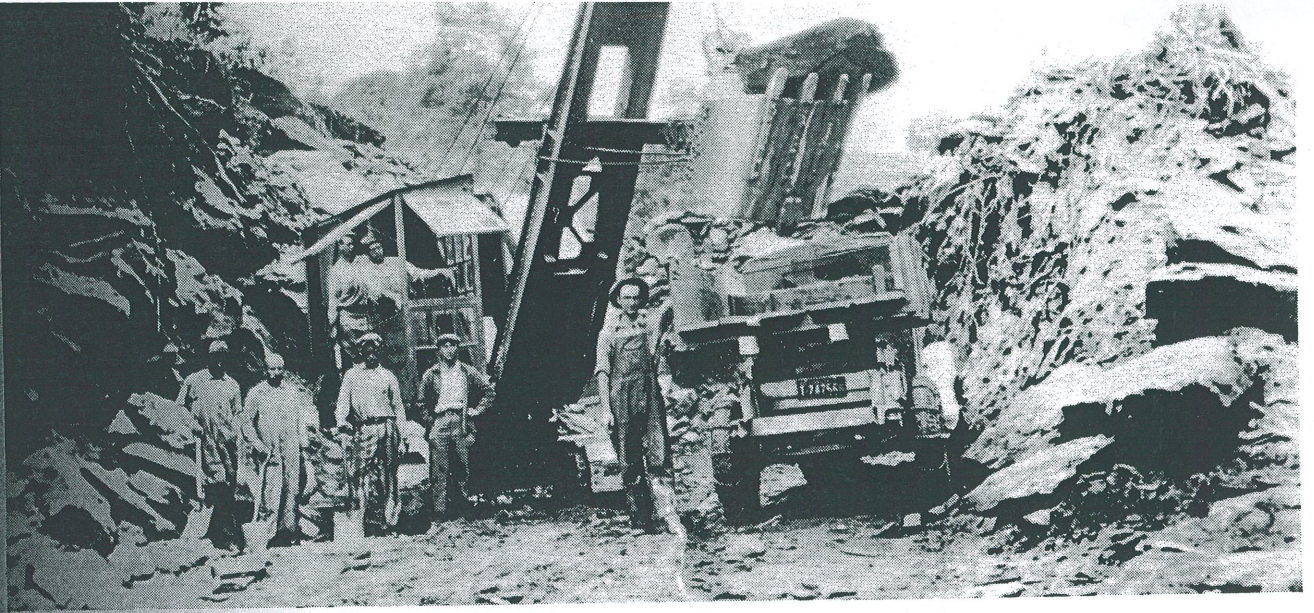
Ed Yates was a community leader and in many ways he was ahead of his time by understanding machinery and what new inventions such as automobiles and electricity would mean to his world. Ed would hold community meetings in his home and have BREMCO officials com and explain what electricity could do for them and make their lives better. Ed and his family was recognized as the 10,000 member of BREMCO. After his retirement from the NCDOT Ed operated his farm and made use of many of the new equipment and improved farming techniques. He was always willing to loan this equipment to his neighbors and help them to understand the operation of the equipment. Ed Yates was a trusted man and leader in his community and it was common knowledge that his word was his bond.

Mr. Chairman your consideration in this matter will be appreciated.

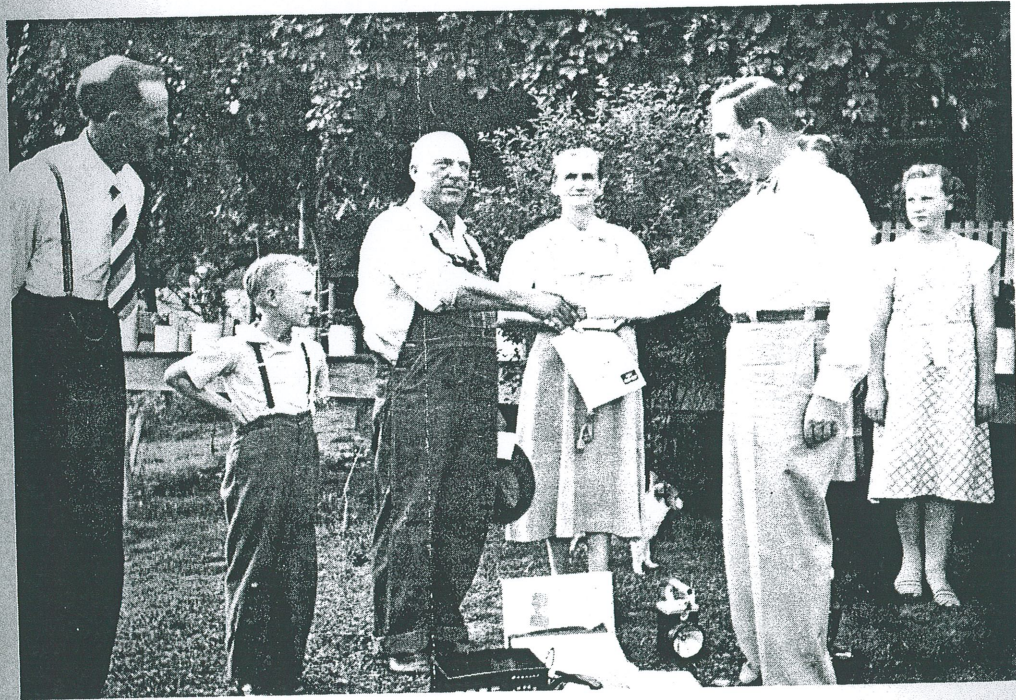
Sincerely,

A handwritten signature in cursive script that reads "Ralph E. Yates". The signature is written in dark ink and is positioned above the printed name.

Ralph E. Yates



Ed Yates (#11) working on the steam shovel



Ed Yates, 10,000th Blue Ridge member being congratulated by Gwyn Price, N. C. REA.

## PROCEDURES FOR NAMING ROADS/BRIDGES/FERRIES

The following documentation and information is required before any naming request will be considered by the Board of Transportation.

### Information to be provided by the local nominating entity:

- 1. Background information on nominee.** Sufficient information must be provided to explain why the naming is warranted; for example, local, state, and/or national contributions and accomplishments. If the designee is recently deceased, the request will be reviewed after a one year waiting period.
- 2. Description of what is requested to be named.** The Board will consider naming Ferries, Interstate, US, and NC routes/bridges only, or more significant bridges on the state's secondary road system. The distance of dedication should be approximately 5 miles or less. Law enforcement officers will be honored with bridge dedications in lieu of highways.
- 3. Resolutions from all local governing bodies associated with or affected by the request.** City or town councils and/or county commissioners must adopt resolutions in sufficient detail to adequately justify the request.
- 4. Strong public input and support.** Explain the degree to which the public supports the request and had notice of action with an opportunity for input.

### NCDOT Staff Review:

- 5. Whether another facility has been previously named by the BOT.**  
The Board does not name more than one facility for the same individual. Requests for duplicate family members reviewed on case by case basis.
- 6. If the facility is planned or under construction, expected completion date.** The Board typically does not name facilities until approximately three months prior to completion.
- 7. Opposition.** The Board does not mediate local disagreements.

### Action by the Road and Bridge Naming Committee and Board of Transportation:

- a. Board member must endorse request and present to Committee and Board.
- b. NCDOT Secretary and Board Chairman are Co-Chairs of the Committee and call meetings and approve the agenda.
- c. A naming request reviewed and recommended by the Committee will be "held" for at least one month before being considered by the full Board.

**SUPPLEMENTAL INFORMATION TO ASSIST WITH ROAD/BRIDGE NAMING REQUESTS  
FROM INDIVIDUALS AND GOVERNMENTS:**

- The requesting party should have the family's support for the road or bridge naming request including agreement with the requested location of the dedication.
- The requested wording to appear on the actual signs needs to be stated in the resolution by the local government (with the family's concurrence) to insure the signs are manufactured correctly. Final wording is at the Department's discretion.
- Interstate designations will use the wording "Freeway" and NC & US roadways designation will use the wording "Highway".
- Local governments could consider the "Adopt a Highway" program as an alternative method of honoring an individual or group.
- The Board does not typically name a facility for accident victims. An individual's accomplishments and contributions to the state and community are used as criteria for consideration for a memorial designation.
- It is the responsibility of the individual seeking the road or bridge naming request to work directly with the local government to obtain the necessary resolution for submittal to the Board.
- Municipalities may name municipally owned streets or bridges in honor of individuals or groups. This does not require DOT review or approval.
- It is the Board's opinion that the Blue Star Memorial Highway designation honors all veterans and military groups in the state. Therefore, any other designation of a road or structure for veterans or military groups would be considered duplication.
- Honorary signs will be ground mounted; overhead signs will not be installed. Signs will be installed at the beginning and ending termini of the approved roadway segment, and will not be installed on exits, Y-lines, or intersecting roadways.
- Signs will not include titles except for certain designations as determined by the committee (i.e. Trooper, Congressman, Governor).
- Dedications for law enforcement officers are for North Carolina officers killed in the line of duty.



Blank Page

**AGENDA ITEM 9:**

**PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT**

***A. Community Development Block Grant (CDBG) Application for Housing Rehabilitation through the NC Catalyst Program***

**MANAGER'S COMMENTS:**

The second and final public hearing in regards to the NC Catalyst Program has been scheduled for the October 16, 2012, meeting. Upon completion of the second public hearing the Board will be requested to submit an application for funding.

Ms. Michelle Ball, High Country Council of Governments, will be on hand to answer any questions.

Board action is requested.

## **WATAUGA COUNTY TO HOLD PUBLIC HEARING**

Watauga County will be holding a public hearing to solicit citizen input on the submission of an application for 2012 Community Development Block Grant funds in the NC Catalyst category in the amount of \$175,000. The CDBG funds will be to help rehabilitate houses occupied by very low-income homeowners in Watauga County. The public hearing is scheduled for Tuesday, October 16, 2012 at 6:00 pm in the Commissioners Boardroom located at the Watauga County Administration Building at 814 W. King Street, Boone, NC. All interested citizens are invited to attend.

Hearing impaired persons desiring additional information or having questions regarding this subject should call Relay North Carolina at 1-800-735-2962.

This information is available in Spanish or any other language upon request. Please contact Joe Furman, County Planner at (828) 265-8043 or at 331 Queen Street, Boone, NC, for accommodations for this request at least 48 hours prior to the hearing.

Esta información está disponible en español o en cualquier otro idioma bajo petición. Póngase en contacto con la Joe Furman, County Planner en el (828) 265-8043 on en 331 Queen Street, Boone, NC, de alojamiento para esta solicitud al menos 48 horas antes de la audiencia.

Nathan A. Miller, Chairman  
Watauga County Board of Commissioners

**AGENDA ITEM 9:****PUBLIC HEARINGS TO ALLOW CITIZEN COMMENT*****B. Proposed Amendments to the Valle Crucis Historic District Ordinance*****MANAGER'S COMMENTS:**

A public hearing has been scheduled to allow public comment on the proposed amendments to the Valle Crucis Historic District Ordinance. The amendments are recommended by the Valle Crucis Historic Preservation Commission. A public hearing is required to be called by the Board of Commissioners to amend the ordinance and a recommendation is needed from the Planning Board before any formal action is taken. The Planning Board will consider the amendments at their October 15, 2012 meeting and have a recommendation for Mr. Furman to present at the public hearing on October 16, 2012.

After the close of the public hearing, the Board may adopt the text amendment as presented, incorporate changes recommended at the hearing, or schedule a work session to discuss additional changes.

Staff seeks direction from the Board.



# WATAUGA COUNTY

*Department of  
Planning & Inspections*

331 Queen Street Suite A • Boone, North Carolina 28607

Phone (828) 265-8043  
TTY 1-800-735-2962  
Voice 1-800-735-8262  
or 711  
FAX (828) 265-8080

Public Hearing Notice  
Watauga County Board of Commissioners  
Tuesday, October 16, 2012  
6:00 PM

The Watauga County Board of Commissioners will hold a public hearing at 6:00 p.m. on Tuesday, October 16, 2012, in the Commissioners' Board Room at the Watauga County Administration Building located at 814 West King Street, Boone, North Carolina. The purpose of the hearing shall be to allow public comment on proposed amendments to the Valle Crucis Historic District Ordinance. Interested parties are encouraged to attend. For information or questions, please call (828) 265-8043.



## STAFF REPORT

### VALLE CRUCIS HISTORIC DISTRICT ORDINANCE

---

**DATE:** August 30, 2012

**APPLICANT:** Valle Crucis Historic Preservation Commission

**LOCATION:** Valle Crucis, North Carolina

**STAFF CONTACT:** John Spear, AICP

#### **BACKGROUND:**

Valle Crucis was the first rural historic district designated in North Carolina. The Historic District Ordinance has been in effect since its original adoption effective September 1, 1990. It has been amended four times for various reasons.

#### **INTENT:**

This proposed amendment will allow low-level, external illumination of advertising signs when street or site lighting is insufficient; clarify staff's role in issuing Certificates of Appropriateness for advertising signs; and extend the validity of Certificates of Appropriateness from 6 months to 12 months.

The following areas of the Citizens' Plan for Watauga lend support to this request:

Pg. 43, Key Economic Sectors - recognize the importance of tourism as a key economic sector.

Pg. 57, Preservation of Unique Community Identities and Heritage - ensure the preservation and protection of the Valle Crucis Historic District.

#### **PUBLIC HEARING AND NOTICE:**

Prior to taking action on any proposed amendment, the board of commissioners must hold a duly advertised public hearing in accordance with NCGS §153A-323.

#### **PLANNING BOARD RECOMMENDATION:**

The planning board will review and comment on whether the proposed amendment is consistent with the Citizens' Plan for Watauga via a written recommendation addressing plan consistency in accordance with NCGS§153A-344.

#### **RELATION TO CITIZENS PLAN FOR WATAUGA:**

The board of commissioners shall consider the plan consistency statement along with public comment and other relevant information before making a final determination.

#### **COUNTY COMMISSIONERS ACTION:**

Prior to adopting or rejecting any proposed amendment, the board of commissioners shall adopt a statement of plan consistency and explain why the board considers the action taken to be reasonable and in the public interest. The plan consistency statement is required by NCGS §153A-341.

Commissioners may take one of the following actions:

- a. Approval of the application.
- b. Approval of a modified version of the application.
- c. Denial of the application.

**PROPOSED AMENDMENTS:**

Please Note:

1. Proposed amendments are shown high-lighted in yellow.
2. Existing text to be removed is shown ~~struck through~~.
3. New text is shown in **bold print**.

2.5 Performance Standardse. Signage

In order to maintain the rural historic character of the District, signs must be limited in size and number. Therefore, off-premises advertising signs are prohibited. On-premises signs are limited as follows:

- a) Signs shall not be placed within a public road right-of-way.
- b) Signs located fifteen (15) feet to twenty five (25) feet from the centerline of a road shall be limited to ten (10) square feet in size.
- c) Signs located twenty five (25) to thirty five (35) feet from the centerline of a road shall be limited to twenty (20) square feet in size.
- d) Signs located thirty five (35) feet or more from the centerline of a road shall have a maximum size of thirty two (32) square feet.
- e) Each establishment is limited to a maximum of two signs (one (1) detached and one (1) attached). However, in a situation where a detached sign is not visible from both directions due to topography or other obstruction, two (2) detached signs may be permitted and shall have a maximum size of ten (10) square feet each.
- f) The maximum height of detached signs is ten (10) feet measured from the ground.

**EXISTING** ~~g) Signs shall not be lighted by either interior or exterior illumination.~~

**PROPOSED** g) Signs shall not be internally illuminated – i.e. translucent plastic signs prohibited.  
 h) Where street or site lighting does not provide sufficient illumination, signs may be externally illuminated by low level, shielded stationary bulbs installed in compliance with North Carolina Statutes §136-32.2. Sign lighting shall be turned off at 11 pm.

2.8 Certificate of Appropriatenessa. Required

**EXISTING** No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features) nor above ground utility structure ~~nor any type of outdoor advertising sign~~ shall be erected, altered, restored, moved or demolished within the Valle Crucis Historic District until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Valle Crucis Historic Preservation Commission.

*(Staff Note: The planning staff has historically issued sign permits in the Historic District following the Historic Preservation Commission's adopted Rules of Procedure. The intent of this amendment is to clarify and maintain the staff's role in issuing sign permits within the District).*

## 2.14 Compliance

Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Watauga County Department of Planning and Inspections.

Failure to comply with a Certificate of Appropriateness shall be a violation of this Ordinance.

**EXISTING** ~~The discontinuance of work or the lack of progress towards achieving compliance with a Certificate of Appropriateness for a period of six months shall be considered as failure to comply with a Certificate of Appropriateness.~~

**PROPOSED** **To ensure continued compliance with the provisions of this ordinance, each approved certificate of appropriateness shall expire 12 months from the date on which final action was taken to approve the application, unless otherwise identified in the certificate, if the alteration, construction, demolition, relocation, or removal has not been initiated. Time extensions may be granted in accordance with the Commission's Rules of Procedure Section 10.17.**

Nothing contained in this Ordinance shall prohibit, impair or limit in any way the power of Watauga County to prevent the construction, reconstruction, alteration, or removal of building structures, appurtenant fixtures or outdoor signs in the Historic District in violation of the provisions of this Ordinance.

The enforcement of any remedy already provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in any other ordinances or laws. (See North Carolina General Statutes 160A-175 and 160A-389)

### **SAMPLE STATEMENTS OF PLAN CONSISTENCY:**

#### Planning Board

*The planning board finds the proposed zoning text amendments consistent with the findings and recommendations of the Citizens' Plan for Watauga. The board members therefore recommend approval because:*

- 1. Advertising signage is critical to the success of local merchants who rely on tourism, a key economic sector.*
- 2. Sign lighting provides guidance and informs both visitors and residents after dark.*
- 3. Tasteful, low-level exterior illumination is consistent with the Rural Historic District Guidelines for Valle Crucis.*

#### Board of Commissioners

*The Board of Commissioners finds adoption of the recommended zoning text amendments to be consistent with the findings and recommendations of the Citizens' Plan for Watauga. The commissioners hereby approve and adopt the amendments as reasonable and in the public interest because:*

- 1. Advertising signage is critical to the success of local merchants who rely on tourism.*
- 2. Sign lighting provides guidance and informs both visitors and residents after dark.*



Blank Page

## **AGENDA ITEM 10:**

### **MISCELLANEOUS ADMINISTRATIVE MATTERS**

#### ***A. Recommended Contract Awards for Employee Medical, Dental, and Life Insurance***

#### **MANAGER'S COMMENTS:**

Renewal rates have been received for medical, dental, and life insurance benefits. The initial renewal received by CIGNA's medical underwriting requested an increase of 36.2%. Staff requested CIGNA to further review enrollment and claim experience which resulted in a 21.55% reduction that yielded a rate of 14.65%. Prior to receiving the lower rate, staff contacted Employee Benefit Advisors (EBA), the County's current broker for dental and life insurance, and requested that they price the County's health insurance with Blue Cross Blue Shield (BCBS). The initial renewal rate from BCBS was 11.89% including all fees and commissions. Staff requested both CIGNA and BCBS to provide the best rate available to the County.

The final rates submitted were 9.78% from CIGNA and 5.36% from BCBS. There was one minor difference in the plan submitted by BCBS. The difference was in the amount paid for services out-of-network related to out-of-pocket expenses. Currently, an employee pays a \$2,500 deductible for services received in-network. Once the \$2,500 in-network deductible is met, the employee is covered at 100%. However, if the employee chooses to receive services out-of-network they would then be required to pay an additional \$2,500 for a total out-of-pocket expense of \$5,000. Under the new plan the employee utilizing services in-network would pay the same \$2,500 deductible and then be fully covered. The same employee who decides to utilize services out-of-network would be required to pay an additional \$3,750 for a total out-of-pocket expense of \$6,250 or a \$1,250 difference over the current plan. The change is not necessarily negative in that it steers employees to utilize in-network services which saves the County and employee money while stretching the employee's HSA dollars further. Blue Cross Blue Shield has stated that their network is larger than the CIGNA network and their contracts for services provide higher discounts which should reduce or potentially nullify the difference in the plans.

Selecting BCBS would require the establishment of new HSA accounts through Mellon Bank. Employees would be given the option to continue using the existing HSA account through JP Morgan Chase until all funds are spent (they would have 24 months to exhaust the funds) or employees would have the option of transferring their current balances to the new HSA account through Mellon Bank. If the Board approves staff's recommendation an email will be sent to employees outlining the changes and providing information on open enrollment and individual or small group meetings to prepare the employees for the plan change. Employees will be required to complete a physical (\$500) and health assessment (\$500) in order to receive the \$1,000 HSA contribution. This is a change from last year in that employees were given \$500 with no requirements and \$250 for a physical and \$250 for a health assessment.

In reference to dental and life insurance, the County is currently in the second year of a two year rate lock for dental and the second year of a three year rate lock for life insurance with Lincoln Financial Group. Both dental and life insurance bids were solicited with no offers received that were competitive with existing rates.

After negotiations with current and prospective providers, staff recommends Blue Cross Blue Shield's health plan through Employee Benefit Advisors (EBA) as presented and the County funding \$1,000 into each employee's HSA account. In addition, staff recommends continuing with Lincoln Financial Group as the County's provider for dental and life insurance. Adequate funds have been budgeted to cover the renewal rates.

# Watagua County

Rates	Counts	Current CIGNA		Renewal CIGNA		Option 2 BCBSNC	
		In-Network		In-Network		In-Network	
Single	245	\$468.99		\$514.86		\$494.11	
Employee + Spouse	16	\$1,042.39		\$1,144.34		\$1,085.91	
Employee + Children	15	\$866.43		\$951.17		\$875.42	
Family	6	\$1,440.01		\$1,580.84		\$1,509.85	
<b>Estimated Annual Premium</b>		\$1,838,608		\$2,018,433		\$1,927,463	
<b>Percentage Change</b>		N/A		9.78%		4.83%	
<b>Dollar Change</b>		N/A		\$179,825		\$88,855	
<b>Deductible</b>		...		...		...	
Individual		\$2,500	\$5,000	\$2,500	\$5,000	\$2,500	\$2,500
Family		\$5,000	\$10,000	\$5,000	\$10,000	\$5,000	\$5,000
<b>Coinsurance</b>		100%	70%	100%	70%	100%	70%
<b>Out-of-Pocket Maximum</b>		...		...		...	
Individual		\$2,500	\$5,000	\$2,500	\$5,000	\$2,500	\$6,250
Family		\$5,000	\$10,000	\$5,000	\$10,000	\$5,000	\$12,500
<b>Outpatient Services</b>		Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins
<b>Inpatient Services</b>		Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins
<b>Emergency Room</b>		Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins
<b>Urgent Care</b>		Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins
<b>Office Visit</b>		Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins	Ded/Coins
<b>Preventative Care</b>		100%	N/A	100%	N/A	100%	N/A
<b>Prescription Drugs</b>		...		...		...	
Generic		Ded/Coins		Ded/Coins		Ded/Coins	Ded/Coins
Preferred Brand		Ded/Coins		Ded/Coins		Ded/Coins	Ded/Coins
Non-Preferred Brand		Ded/Coins		Ded/Coins		Ded/Coins	Ded/Coins

**AGENDA ITEM 10:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

***B. Proposed SECU ATM Lease Renewal***

**MANAGER'S COMMENTS:**

The State Employees Credit Union is requesting to renew the ATM lease located at the Human Services Parking Lot which is scheduled to expire on December 31, 2012. The proposal increases the monthly amount from \$385 to \$400 with a five (5) year term. No other changes have been made to the current agreement.

The Credit Union has been a good steward and staff would recommend the Board approve the lease agreement for \$400 a month for a five (5) year period contingent upon County Attorney review.

# State Employees' Credit Union®

September 27, 2012

Deron Geouque, County Manager  
Watauga County Courthouse  
814 West King St Suite 205  
Boone NC 28607



Re: Lease for SECU ATM  
Human Services Complex

Dear Deron:

Enclosed is the new ATM Lease Agreement we spoke about over the telephone a few weeks ago. Some background may be helpful. The current lease for this ATM expires on December 31, 2012 and requires a 90-day notice. There are no options on the lease. The payment required under the lease is \$385.00/mo.

State Employees' Credit Union (SECU) would like to keep the ATM in place and proposes a term of five (5) years with a monthly payment of \$400.00. Other terms of the Lease Agreement are unchanged from the current lease.

In the interest of time, we have executed three (3) copies of the proposed lease. If you are agreeable to the terms and conditions, please sign two (2) copies and return to me at:

SECU  
PO Box 1037  
Boone NC 28607

Thank-you for your consideration and assistance in this matter. Please do not hesitate to contact me if you have any questions concerning the proposed lease.

Sincerely,

Michael J Salzano  
Senior Vice-President

Enclosures



NORTH CAROLINA:

WATAUGA COUNTY:

### LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this TWENTY FOURTH day of, SEPTEMBER, 2012, by and between, WATAUGA COUNTY FINANCE DEPARTMENT, hereinafter referred to as "Lessor"; and STATE EMPLOYEES' CREDIT UNION, a North Carolina corporation, hereinafter referred to as "Lessee";

#### WITNESSETH:

That subject to the terms and conditions hereinafter set out, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of Lessor that certain tract or parcel of land located, 132 POPLAR GROVE ROAD CONNECTOR, BOONE, County of WATAUGA, State of North Carolina.

The terms and conditions of this Lease are as follows:

- 1) The term of this Lease shall be for a period of FIVE (5) years beginning on the FIRST day of, JANUARY, 2013, and ending on the LAST day of DECEMBER, 2017, unless extended or terminated under the other provisions of this Lease.
- 2) As rental for said premises, Lessee shall pay to Lessor, at the address noted below, and without notice or demand therefore, the sum of FOUR HUNDRED Dollars (\$400.00) per month, payable monthly in advance on the first day of each calendar month. Rental payments shall be made to WATAUGA COUNTY FINANCE DEPARTMENT, 814 WEST KING STREET, ROOM 216, BOONE, NC 28607.
- 3) Lessee shall use and occupy the premises for the purpose of maintaining a kiosk ATM, and in connection thereto, shall comply with all laws, ordinances, orders, or regulations of any lawful authority having jurisdiction over the premises and the use thereof.
- 4) It is understood and agreed that Lessee shall be responsible for construction of the ATM and for the upkeep, repair, and maintenance of said structure during the term of this Lease or any extension hereof. At the expiration of the term of this Lease, or the prior termination of said Lease as herein provided, Lessee shall be responsible for removing said ATM from the premises and restoring the premises to their present condition.
- 5) During the term of this Lease, Lessee shall maintain comprehensive general liability insurance on an occurrence basis with maximum limits of liability in the amount of Three Hundred Thousand Dollars (\$300,000.00) for property damage, bodily injury, personal injury or death to any one person; Lessee shall also maintain excess liability coverage with a per occurrence limit of One Million Dollars (\$1,000,000.00); and Lessee shall keep the kiosk structure on the demised premises together with the equipment in said building insured against loss or damage by fire or other casualties.
- 6) Lessee shall neither use nor occupy the demised premises or any part thereof for any unlawful or ultrahazardous business purpose nor operate or conduct its business in a manner constituting a nuisance of any kind.

- 7) Lessee shall pay prior to delinquency all taxes and assessments of every kind and nature which may be imposed or assessed upon or with respect to the structure and equipment placed on the premises by Lessee.
- 8) If the Leased Premises are wholly or partially destroyed by fire or other casualty, rental shall abate in proportion to the loss of use thereof, and Lessee shall, at its own expense, promptly restore the Leased Premises to substantially the same condition as existed before damage or destruction, whereupon full rental shall resume. Should Lessee elect not to repair or replace the ATM, then Lessee shall provide written notice to Lessor of its intent to terminate this Lease Agreement. Upon such termination Lessee shall diligently repair the Leased Premises to its original condition prior to the installation of the ATM. After the Leased Premises are repaired, Lessee and Lessor shall not have any responsibility to each other under the terms of the Lease Agreement.
- 9) If the whole of the premises, or such portion thereof as will make the premises unsuitable for use contemplated hereby, shall be taken under the power of eminent domain (including any conveyance in lieu thereof), then the term hereof shall cease as of the date possession thereof is taken by the condemnor, and rental shall be accounted for as between Lessor and Lessee as of that date.
- 10) All applications in connection with necessary utility services on the demised premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for electricity, gas, water, sewer, and telephone services.
- 11) Lessee shall be in exclusive control and possession of the demised premises, and Lessor shall not be liable for any injury or damages to any property or to any person on or about the demised premises nor for any injury or damage to any property of Lessee. Lessee shall defend, indemnify and hold harmless the Lessor from and against any claims, damages, or expenses (including reasonable attorney's fees), whether due to damage to the premises, claims for injuries to persons or property, or administrative or criminal action by governmental authority, where such claims, damages, or expenses result from the negligence, misconduct or breach of any provision of this Lease Agreement by Lessee, its agents, employees or invitees.
- 12) THERE WILL BE NO RENEWAL OPTIONS.
- 13) It is expressly understood and agreed that if any monthly installment of rent as herein called for shall remain overdue and unpaid for ten (10) days, Lessor may, at its option, at any time during such default, declare this Lease terminated and canceled and take possession of said premises, and require the Lessee to remove the structure from the premises and restore the premises to their former condition.
- 14) If Lessee shall pay the rent and perform and observe all the other covenants and conditions to be performed and observed by it hereunder, Lessee shall at all times during the term hereof have the peaceable and quiet enjoyment of the premises without interference from Lessor or any person lawfully claiming through Lessor.
- 15) All notices provided for in this Lease Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail addressed to Lessor at:

COUNTY OF WATAUGA  
ATTN: COUNTY MANAGER  
814 WEST KING STREET, ROOM 216  
BOONE, NC 28607

and to Lessee at:

State Employees' Credit Union  
P. O. Box 27665  
Raleigh, N. C. 27611

- 16) This Lease Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina.
- 17) This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 18) This Lease contains the complete agreement of the parties regarding the terms and conditions of the lease of the premises, and there are no oral or written conditions, terms, warranties, understandings or other agreements pertaining thereto which have not been incorporated herein. This Lease Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.
- 19) If any provision of this Lease shall be declared invalid or unenforceable, the remainder of the Lease shall continue in full force and effect.

*THIS PORTION INTENTIONALLY LEFT BLANK*



IN TESTIMONY WHEREOF, the parties have caused this Lease Agreement to be executed as of the day and year first above written.

LESSOR:  
WATAUGA COUNTY FINANCE DEPARTMENT

BY: \_\_\_\_\_  
PRESIDENT

ATTEST:

\_\_\_\_\_  
SECRETARY



LESSEE:  
STATE EMPLOYEES' CREDIT UNION

BY: *Dot Hinton*  
SENIOR VICE-PRESIDENT, FACILITIES SERV.

ATTEST:

*Yvonne*  
ASSISTANT CORPORATE SECRETARY

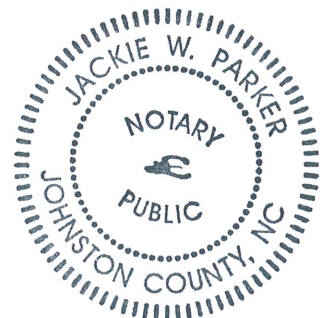
NORTH CAROLINA:  
WAKE COUNTY:

This the 25<sup>th</sup> day of September, 2012, before me, *Jackie W. Parker*,  
a Notary Public, personally came *Dot Hinton*, who, being duly sworn, *says* that she is Senior Vice-President, Facilities Services of STATE EMPLOYEES' CREDIT UNION and that the seal affixed to the foregoing instrument in writing is the corporate seal of the said corporation, and that said writing was signed and sealed by her in behalf of the said corporation by its authority duly given and the Senior Vice-President, Facilities Services acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and notarial seal, this the 25<sup>th</sup> day of September 2012.

*Jackie W. Parker*  
*Jackie W. Parker*  
NOTARY PUBLIC

My Commission Expires:  
*Oct. 28, 2014*



**AGENDA ITEM 10:****MISCELLANEOUS ADMINISTRATIVE MATTERS*****C. Proposed AT&T Cell Lease*****MANAGER'S COMMENTS:**

The Board previously considered leasing a co-location site at the Rocky Knob Park on an existing Blue Ridge Electric Membership Company (BREMCO) transmission pole to AT&T for a cell tower antenna. The Parks and Recreation Trust Fund (PARTF) granted permission for the location of the cell tower as grant monies partially funded the land acquisition for the park property. In addition, approval was granted based on the stipulation that funds generated were to be used for park maintenance and repairs. An Intent to Lease Notice was advertised as directed by the County Attorney and required by the North Carolina General Statutes. The lease is proposed to generate \$6,000 annually from AT&T with a term of ten (10) years.

Due to unforeseen issues, AT&T was unable to pursue the tower commitment at that time and the project did not proceed further. However, AT&T has recommitted to constructing the tower at Rocky Knob Park.

Per BREMCO, a Transmission Line and Pole Attachment Easement was previously approved by the Board. Board action is requested to approve the Communication Facility Easement Agreement and Utility Easement contingent upon County Attorney review.

Market: North Carolina  
 Cell Site Number: 174-246  
 Cell Site Name: 174-246

### COMMUNICATION FACILITY EASEMENT AGREEMENT

**THIS COMMUNICATION FACILITY EASEMENT AGREEMENT** (the "Agreement"), is made and entered into as of the latter of the signature dates hereof, by and between Watauga County, a corporate body politic chartered by the State of North Carolina, having a mailing address of 814 West King Street, Boone, NC 28607 ("Grantor"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004, its associated and allied companies, and its successors, assigns, lessees, licensees, employees, agents and subcontractors (collectively the "Grantee")

#### W I T N E S S E T H:

**WHEREAS**, Grantor is the owner in fee simple of certain real property located in Watauga County, NC which Grantor acquired by Deed dated 12/16/2009, of record in Book 1487, Page 851, in the Watauga County Registry (the "Property"); and

**WHEREAS**, the Property is subject to that certain easement dated 12/3/2009 and recorded in Plat Book 22 at Page 36 (the "**Blue Ridge Electric Membership Corporation**") in favor of Blue Ridge Electric, ("BREMCO"); and

**WHEREAS**, Blue Ridge Electric Membership Corporation, has granted to Grantee the right to install Grantee's antenna array and associated equipment for Grantee's communications systems within the Blue Ridge Electric Membership Corporation Easement; and

**WHEREAS**, Grantor agrees to grant to Grantee an easement for ingress egress, utilities, and the right to construct, install, maintain, operate, repair, replace, and remove Grantee's equipment within the Blue Ridge Electric Membership Corporation Easement;

**NOW, THEREFORE**, Grantor has BARGAINED and SOLD and does hereby GRANT and CONVEY unto Grantee during the Term (as hereinafter defined) a non-exclusive right of way and easement along, across, under and through the portion of the Property described and depicted on Exhibit A attached hereto and incorporated herein by reference (the "Easement"), for (a) pedestrian and vehicular access, twenty-four (24) hours per day, seven (7) days per week, to Grantee's communication fixtures and related equipment, cables, accessories and improvements (collectively the "Communication Facility"), installed and constructed or to be installed and constructed within such Easement, for the purpose of installing, constructing, maintaining, operating, repairing, replacing and/or upgrading any portion or all of such Communication Facility and (b) the installation, construction, maintenance, operation, repair, replacement and upgrade of all utilities deemed necessary or advisable by Grantee for the operation of such Communication Facility, together with the right to use such additional portions of the Property adjoining the Easement during the time of, and as may reasonably be necessary for, the construction and installation of the Communication Facility. Grantor further grants and conveys to Grantee the right and power during the Term to clear and keep clear all trees, roots, brush, vines, overhanging limbs and other obstructions from the surface and subsurface of the Easement. All trees, roots, brush, vines, overhanging

limbs or other obstructions cleared from the surface and subsurface shall be immediately removed from the surface of the Easement.

The term of the Easement and this Agreement (the "Term") will commence upon the date Grantee commences construction of the Communication Facility (the "Commencement Date") and will terminate on the last day of the month in which the tenth (10<sup>th</sup>) annual anniversary of the Commencement Date occurs, unless earlier terminated pursuant to the terms hereof. The Easement and this Agreement may be terminated, without penalty or further liability, by Grantee on thirty (30) days prior written notice to Grantor for any reason or no reason.

Grantee may assign this Agreement and the Easement, or lease or license the Easement and its rights herein, in whole or in part, without Grantor's consent and without having to pay any additional or further consideration to Grantor. Upon notification to Grantor of any such assignment, Grantee will be relieved of all future performance, liabilities and obligations under this Agreement. Grantor will fully cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide service to the Grantee.

In exchange for the Easement granted pursuant hereto and the above-described rights and powers granted to Grantee, Grantee shall pay to Grantor, commencing on the Commencement Date, a monthly payment in the amount set forth on Exhibit B (the "Monthly Payment"), at Grantor's address set forth on the signature page hereof, or to such other address as Grantor may designate by notice pursuant to the notice provisions hereof, on or before the first (1<sup>st</sup>) day of each calendar month during the Term; provided, however, that (i) the initial Monthly Payment will be due and payable within thirty (30) days after the Commencement Date and (ii) if the Commencement Date occurs on a day other than the first day of a calendar month, the initial Monthly Rental Payment shall be pro-rated, and the second Monthly Rental Payment shall also be due and payable within thirty (30) days after the Commencement Date. The following will be deemed a default by Grantee and a breach of this Agreement: non-payment of a Monthly Payment if such Monthly Payment remains unpaid for more than thirty (30) days after receipt of written notice from Grantor of such failure to pay. If Grantee remains in default beyond such thirty (30) day cure period, Grantor may terminate the Easement and this Agreement on thirty (30) days prior written notice to Grantee.

Beginning in year two and on the anniversary of the first rent payment of this Agreement and each year thereafter, the rent will be calculated by a formula as follows:  $\text{New Rent} = [(\text{prior year's rent}) \times (\text{CPI percentage increase per AT\&T})] + (\text{prior year's rent})$ . "Consumer Price Index" (CPI) will mean the Consumer Price Index

Within one hundred twenty (120) days of the termination or expiration of the Easement and this Agreement, Grantee shall, to the extent reasonable, restore the Easement to its condition at the commencement of this Agreement, reasonable wear and tear and loss by casualty or other causes beyond Grantee's control excepted. Notwithstanding the foregoing, Grantee will not be responsible for the replacement of any trees, shrubs or other vegetation cleared and kept cleared by Grantee pursuant to its rights set forth in this Agreement, nor will Grantee be required to remove from the Easement any foundations or underground utilities.

**TO HAVE AND TO HOLD** said Easement unto the Grantee pursuant to the terms of this Agreement.

Grantor will not grant, after the date of this Agreement, a lease, license or any other right to any third party for use of the Property, if such use may in any way adversely affect or interfere with the Communication Facility, the Easement or any rights of Grantee set forth herein. Grantor will notify Grantee in writing prior to granting any third party the right to install and operate communications equipment on the Property. Grantor will not use, nor will Grantor permit its employees, tenants, licensees,

invitees or agents to use, any portion of the Property in any way which interferes with the operations of Grantee or the rights of Grantee under this Agreement. Grantor will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Grantee. In the event any such interference does not cease within the aforementioned cure period then the parties acknowledge that Grantee will suffer irreparable injury, and therefore, Grantee will have the right, in addition to any other rights that it may have at law or in equity, for Grantor's breach of this Agreement, to elect to enjoin such interference or to terminate this Agreement upon notice to Grantor.

Grantee agrees to indemnify, defend and hold Grantor harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Grantee or its employees or agents, or Grantee's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Grantor, its employees, agents or independent contractors.

Grantor represents and warrants that: (x) Grantor solely owns the Property as a legal lot in fee simple and Grantor covenants that Grantor will warrant and defend title to the Property against all claims; (y) the Property is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Grantee's use and enjoyment of the Easement under this Agreement; and (z) Grantor's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Grantor.

Grantor represents and warrants that the Property is free of hazardous substances, and is otherwise in compliance with all applicable environmental laws, as of the date of this Agreement, and, to the best of Grantor's knowledge, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Grantor, its heirs, grantees, successors, and assigns shall indemnify, defend, reimburse and hold harmless Grantee from and against any and all environmental damages arising from the presence of hazardous substances, or from any other contamination, upon, about or beneath the Easement or the Property or migrating to or from the Easement or the Property or arising in any manner whatsoever out of the violation of any environmental laws pertaining to the Easement or the Property and any activities thereon, which conditions exist or existed prior to or at the time of the execution of this Agreement or which may occur at any time in the future through no fault of Grantee. The indemnification, defense, reimbursement and hold harmless obligations of Grantor set forth in this paragraph specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority and shall survive the expiration or termination of the Easement and this Agreement.

Grantor shall not grant to any person or entity any right, permanent, temporary or otherwise, in the Easement granted herein to Grantee. Grantor shall have the right to use the surface of the land lying over the Easement for any lawful purpose, provided such use will not interfere with Grantee's free use of the Easement or any of its other rights herein and provided further that no building or permanent structure shall be erected upon, across, over or through the Easement and no change will be made by grading or otherwise to the surface or subsurface of the Easement or to the ground immediately adjacent to the Easement, without the written consent of the Grantee.

The following will be deemed a default by Grantor and a breach of this Agreement: Grantor's failure to perform any term, condition, or breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Grantee specifying the failure. If Grantor remains in default beyond such forty-five (45) day cure period, Grantee will have the right to exercise any and all rights available to it under law and equity, including the right to cure Grantor's default and to deduct the costs of such cure from any monies due to Grantor by Grantee.

All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed to the parties at their respective addresses set forth on the signature page hereof. Either party hereto may change the place for the giving of notice to it by thirty (30) days written notice to the other as provided herein. If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. The Easement granted herein runs with the Property and is binding upon and inures to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns. This Agreement cannot be amended, modified or revised, and no provision may be waived, unless done in writing and signed by both parties. This Agreement and the exhibit attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. This Agreement will be governed by the laws of the state in which the Easement is located, without regard to conflicts of law. Unless otherwise specified, the following rules of construction and interpretation apply: (A) use of the term "including" will be interpreted to mean "including but not limited to"; (B) the exhibit is an integral part of the Agreement and is incorporated by reference into this Agreement; (C) use of the terms "termination" or "expiration" are interchangeable; and (D) reference to a default will take into consideration any applicable notice, grace and cure periods.

**[SIGNATURES FOLLOW ON NEXT PAGE]**

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

The parties have caused this Agreement to effective as of the last date written below.

**GRANTOR:**

Watauga County, a corporate body politic chartered by the State of North Carolina

By: \_\_\_\_\_

Name: Nathan Miller

Title: Chairman of Watauga County Commissioners

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

Address:

814 West King Street  
Boone, NC 28607

**GRANTOR ACKNOWLEDGMENT**

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

I, \_\_\_\_\_, a Notary Public of the City and State aforesaid, do hereby certify that James M. Deal, Jr. whose name as such is signed to the foregoing COMMUNICATION FACILITY EASEMENT AGREEMENT, has acknowledged the same before me in the City / County and State aforesaid.

GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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

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

**GRANTEE:**

New Cingular Wireless PCS, LLC,  
By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_

Name: Linda De Young

Title: Area Manager of Real Estate & Construction

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

Address:

If to Tenant:

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Cell Site #: 174-246; Cell Site Name: 174-246 (NC)  
Fixed Asset No.: 10142294  
12555 Cingular Way, Suite 1300  
Alpharetta, GA 30004

With a copy to:

New Cingular Wireless PCS, LLC  
Attn: Legal Department  
Re: Cell Site #: 174-246; Cell Site Name: 174-246 (NC)  
Fixed Asset No.: 10142294  
1025 Lenox Park Blvd.  
5<sup>th</sup> Floor  
Atlanta, GA 30319



**GRANTEE ACKNOWLEDGMENT**

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, do hereby certify that Linda De Young, whose name as such is signed to the foregoing COMMUNICATION FACILITY EASEMENT AGREEMENT, has acknowledged the same before me in the City / County and State aforesaid.

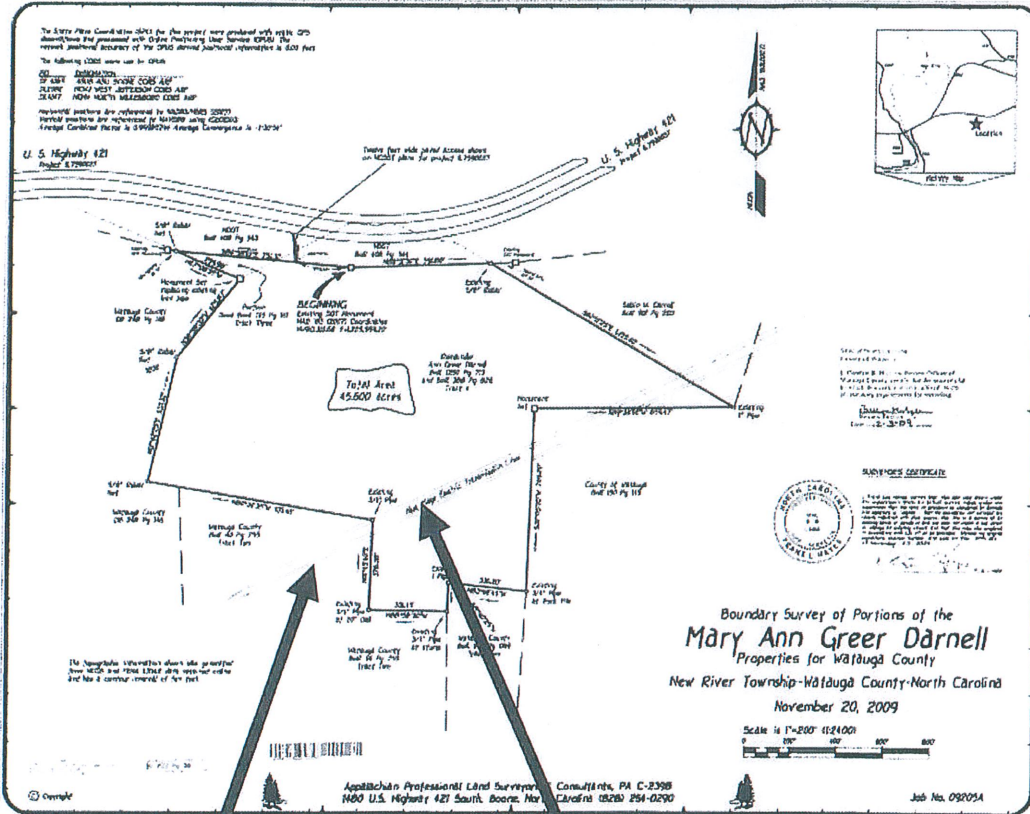
GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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

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

**EXHIBIT A**  
**Page 1 of 3**

to the **COMMUNICATION FACILITY EASEMENT** between Watauga County, a corporate politic chartered by the State of North Carolina and **New Cingular Wireless PCS, LLC**, dated \_\_\_\_\_.

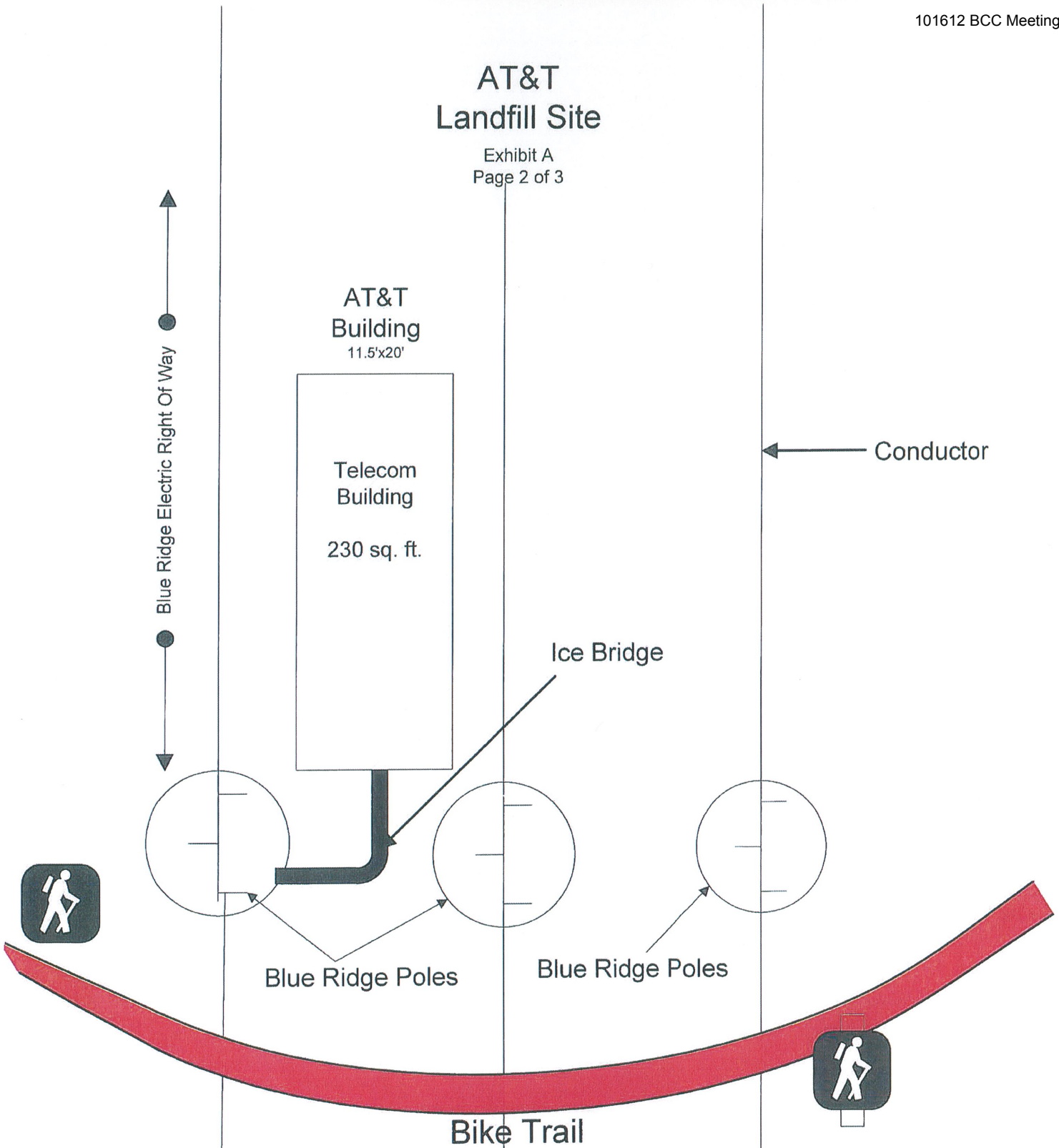


Existing BREMCO Utility Easement and ingress and egress across Watauga County Parcels from Hwy 421 through The Watauga County Landfill to the AT&T Communication Facility along existing BREMCO access road at the end of paved Landfill Road. BREMCO will be signing a new Easement Agreement with Watauga County for further Deed references

AT&T Communication Facility Equipment Area Platform 12' X 28' and 100' Replacement Power Transmission Pole with Collocation of Antenna Array at 100'

# AT&T Landfill Site

Exhibit A  
Page 2 of 3

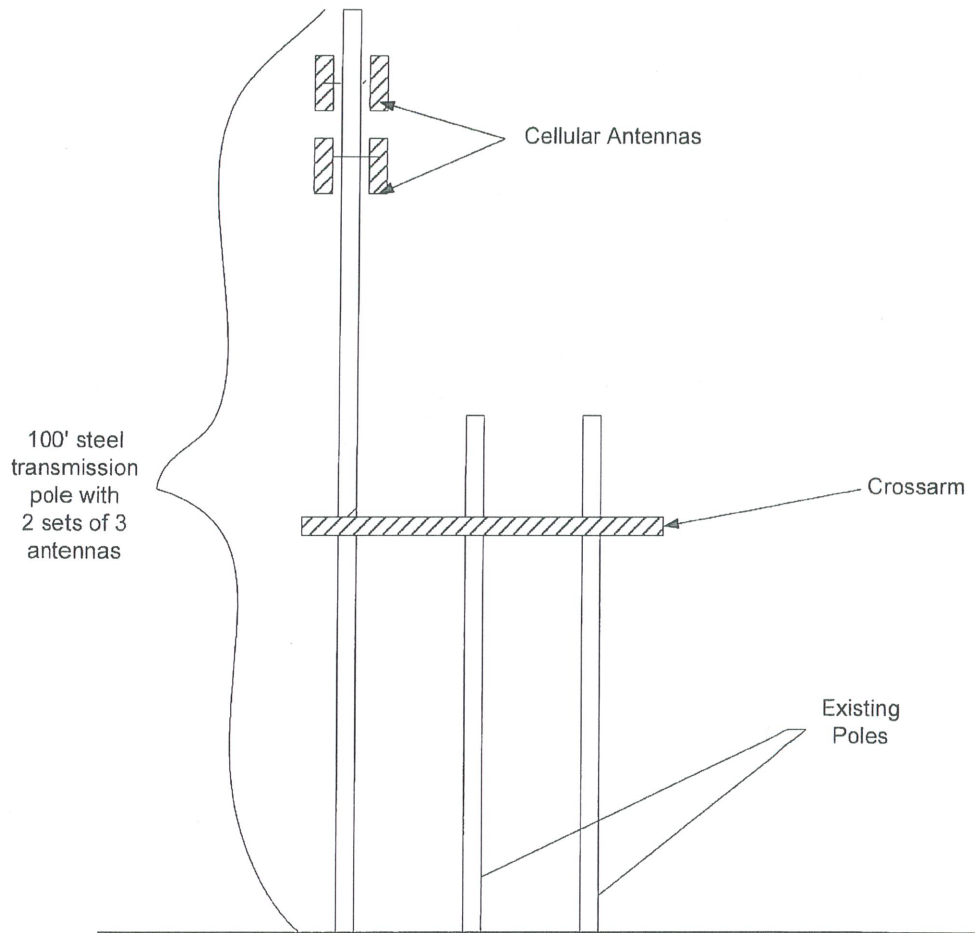


**Notes:**

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY TENANT.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY'S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE

# AT&T Landfill Site

Exhibit A  
Page 3 of 3



**EXHIBIT B**

**to the COMMUNICATION FACILITY EASEMENT between Watauga County, a corporate politic chartered by the State of North Carolina and New Cingular Wireless PCS, LLC, dated \_\_\_\_\_.**

The amount of the Monthly Payment is: \$500.00 Dollars and No Cents (\$500.00).

Grantor Initials: \_\_\_\_\_

Grantee Initials: \_\_\_\_\_

**UTILITY EASEMENT (Corp./LLC)**

Return to: Blue Ridge Electric Membership Corporation

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

KNOW ALL MEN BY THESE PRESENTS, that **Watauga County, a body politic**, hereinafter called "Grantor" (whether one or more), in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, does hereby grant unto BLUE RIDGE ELECTRIC MEMBERSHIP CORPORATION, its successors, assigns and licensees, hereinafter called "Grantee", the right, privilege and easement to go in and upon and over and across that certain land of Grantor (hereinafter "premises") situated in said County and State, **New River Township**, as described in Deed Book 248, at Page 146, Deed Book 040, at Page 755, Deed Book 1487, at Page 851, Plat Book 022, at Page 036, in the Watauga County Registry, with a right of way strip having a width of ten (10) feet on each side of a centerline determined by the centerline of the electrical facilities as installed, to:

\_\_\_\_\_ (initial here for underground facilities)

place, construct by digging, trenching and by other reasonable means, maintain, operate, relocate and replace underground electric distribution facilities, lines and conduits with other necessary apparatus and appliances, either above ground or below ground, to include transformers and service connections, for the purpose of transporting electricity and for the communications purposes of Grantee and its licensees. The following rights are also granted to Grantee: to enter said premises to inspect said lines, to perform necessary maintenance and repairs, and to make alterations and additions thereto; and to clear the land within the right of way strip and to keep it clear of trees, structures and other obstructions; the right to prohibit and prevent the construction or placing of any building or other major structures upon, over or within ten (10) lateral feet from said line; and to clear that land outside the right of way strip within ten (10) feet of the service door of any transformer or cabinet and to keep the area within ten (10) feet of said door clear of trees, shrubbery, structures or other obstructions. All underground facilities are to be installed in accordance with the provisions of Grantee's Underground Distribution Installment Agreement, receipt of a copy of which is acknowledged by Grantor.

Grantee shall exercise care in the utilization of its underground construction; provided, Grantor acknowledges that the ultimate responsibility of the repair, replacement and restoration of shrubs, trees, grass, sod, walkways and driveways disturbed by Grantee and its agents will be that of Grantor.

This easement is subject to the applicable terms and conditions of Grantee's Underground installation Plan and Grantee's Practice Statement P-9-1-2, which are incorporated hereby by reference.

Grantor hereby grants to Grantee an easement to go in and upon, over and across the "Premises" with a right-of-way strip having a width of fifteen (15) feet on each side of a centerline determined by the centerline of the electrical facilities as installed, to:

\_\_\_\_\_ (initial here for overhead construction)

construct, maintain and operate with poles, crossarms, wires, guys, anchors, cable, transformers and other necessary apparatus and appliances, overhead lines for the purpose of transporting electricity and for the communications purposes of Grantee and regulated telephone utilities and other licensees of Grantee. The following rights are also granted to Grantee: to enter said premises to inspect said line, to perform necessary maintenance and repairs, and to make alterations and additions thereto; to remove from the right of way strip, now or at any time in the future, trees, structures, or other obstructions that may endanger the proper maintenance and operation of said lines and trees of any species that Grantee determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines; to trim or remove and to keep trimmed or removed dead, diseased, weak or leaning trees or limbs outside of the right of way strip which, in the opinion of Grantee, might interfere with or fall upon the electric or communication facilities within the right of way strip; and to install guy wires, stub poles and wires and anchors extending beyond the limits of the right of way strip when determined necessary by Grantee. This easement also includes the right to prohibit the construction of buildings or other facilities within fifteen (15) lateral feet of said line, or within such proximity to an above ground electric facility that would endanger the operation or prevent the maintenance of the line or system.

This easement is given to permit the construction of electrical facilities presently proposed. Facilities at other locations and future extensions of presently constructed facilities are not permitted by this Agreement. The foregoing notwithstanding, Grantee may relocate its electrical facilities and right of way strip over the premises to conform to any future highway or street relocation, widening or improvement.

The Grantor further gives, grants and conveys to Grantee the right of ingress and egress over and across the other lands of the Grantor described above by means of existing roads and lanes thereon, adjacent thereto, or crossing said easement; otherwise, by such route or routes as shall occasion the least practicable damage and inconvenience to the Grantor; provided, that such right of ingress and egress shall not extend to any portion of said lands which is separated from said easement by any public road or highway, now crossing or hereafter crossing said lands.

Grantor shall retain all other rights to his lands not inconsistent with the rights and easements herein conveyed, but Grantor cannot interfere with or endanger the construction, operation, or maintenance of the Grantee's facilities.

After construction is completed, when it becomes necessary for Grantee to exercise its right of ingress and egress granted herein, Grantee shall repair any damage it shall do to Grantor's private lanes, roads, or crops and shall reimburse Grantor for any actual loss or damage which shall be caused by the exercise of said ingress and egress.

The failure of Grantee to exercise any of the rights herein acquired shall not be construed as a waiver or abandonment of the right hereafter at any time and from time to time to exercise any or all of them.

The undersigned Grantor agrees that all poles, wires and other facilities, installed on the above described lands by the Grantee shall remain the property of the Grantee, removable at the option of the Grantee.

The Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, or any interest therein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions herein stated.

Title to the property hereinafter described is subject to the following exceptions: \_\_\_\_\_

It is further understood that, whenever necessary, words used in this instrument in the singular shall be construed to read in the plural and that words used in the masculine gender shall be construed to read in the feminine.

FOR OFFICE USE ONLY: 2920-48-2773-000, 2920-58-4187-000 and 2920-59-7831-000.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officer, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Watauga County, a body politic**

By: \_\_\_\_\_

Name: Nathan A. Miller

Title: Chairman, Watauga County Board of Commissioners

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

I, \_\_\_\_\_, a Notary Public in and for the above named State and County, do hereby certify that **Nathan A. Miller** personally came before me this day and acknowledged that he is **Chairman of the Watauga County Board of Commissioners, a body politic**, and that he, as **Chairman of the Watauga County Board of Commissioners**, being authorized to do so, executed the forgoing instrument on behalf of the corporation.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

\_\_\_\_\_  
Printed Name of Notary Public

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

SEAL-STAMP



Blank Page

**AGENDA ITEM 10:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*D. Discussion of November Meeting Schedule*

**MANAGER'S COMMENTS:**

The November 6, 2012 meeting falls on Election Day in which the Board of Elections requires the use of the Board room for that day. Historically, November is a month with very few agenda items. The Board may wish to reschedule or cancel the November 6<sup>th</sup> meeting.

At this time, staff would recommend canceling the November 6, 2012 meeting due to the Board of Elections requiring the use of the Board room. The November 20, 2012, meeting would be adequate to address County business.

Blank Page

**AGENDA ITEM 10:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*E. Proposed Dates for the County Christmas Luncheon*

**MANAGER'S COMMENTS:**

The County Manager is proposing the dates of Thursday, December 6, 2012 or Tuesday, December 11, 2012 for the annual County Christmas Luncheon to be held at Dan'l Boone Inn from 12:00 to 2:00pm.

Staff seeks direction from the Board.

Blank Page

**AGENDA ITEM 9:****MISCELLANEOUS ADMINISTRATIVE MATTERS*****F. Boards and Commissions*****MANAGER'S COMMENTS:**

A term on the Watauga County Board of Adjustment expires in November. Ms. Janet Miller is willing to be reappointed for the 3 year term. At the October 2, 2012, Board meeting, a volunteer application was submitted from Mr. Adam Rhyne who is also interested in serving on this Board. The soon-to-be vacant seat is for an at-large member. Two of the six seats on the Board are filled with at-large members. The other 4 are filled by representatives of the zoned and watershed areas in the county. The Board of Adjustment historically meets infrequently.

All the above are second readings; therefore, action may be taken if so desired.

**Anita.Fogle**

---

**From:** Joe Furman  
**Sent:** Monday, September 10, 2012 11:28 AM  
**To:** Deron.Geouque  
**Cc:** Anita.Fogle  
**Subject:** Boards and Commissions

Deron,

There are two seats on planning-related boards to be filled as follows.

1. Valle Crucis Historic Preservation Commission: Allen Culler's term expires this month. He is willing to be reappointed. The VCHPC is involved in the issuance of "Certificates of Appropriateness" pursuant to the Valle Crucis Historic District Ordinance. The Commission's membership includes 3 residents of the historic district and 2 residents of the Valle Crucis community who are also members of the elected Valle Crucis Community Council. Mr. Culler's seat is one of the 2 Community Council member seats. Terms are 3 years. The VCHPC has historically met infrequently.
2. Board of Adjustment: The term of Janet Miller, who is an at-large member, expires in November. She is willing to be reappointed. At-large members fill 2 of the 6 seats; the other 4 are filled by representatives of the zoned and watershed areas in the county. Terms are 3 years. The Board of Adjustment has historically met infrequently.

Joseph A. Furman, AICP  
Director, Watauga County Planning & Inspections and Economic Development  
331 Queen Street, Suite A  
Boone, NC 28607  
(828) 265-8043  
(828) 265-8080 (fax)  
[joe.furman@watgov.org](mailto:joe.furman@watgov.org)

Volunteer Application  
Watauga County Boards And Commissions

101612 BCC Meeting

If you are a Watauga County resident, at least 18 years old, and willing to volunteer your time and expertise to your community, please complete the application below and click on Print Form.  
Please sign and mail or fax to:

Watauga County Commissioners' Office  
814 West King Street, Suite 205  
Boone, NC 28607  
Phone: (828) 265-8000  
Fax: (828) 264-3230

Name: ADAM CHARLES RHYNE

Home Address: 305 REVERVIEW LN.

City: BOONE Zip: 28607

Telephone: (H) 828-264-7578 (W) 828-264-4210 (Fax)

Email: rhyn@gmail.com

Place of Employment: ISLAND LANDSCAPE SUPPLIES

Job Title: OPERATIONS



In Order To Assure County wide Representation Please Indicate Your Township Of Residence:

101612 BCC Meeting

- Bald Mountain
- New River
- Beaver Dam
- Blue Ridge
- Elk
- Stony Fork
- Brushy Fork
- Meat Camp
- Blowing Rock
- North Fork
- Watauga
- Cove Creek
- Shawneehaw
- Laurel Creek
- Boone

In addition, Please Indicate If You Live In One Of The Following Areas:

- Foscoe-Grandfather Community
- Howards Creek Watershed
- South Fork New River Watershed
- Valle Crucis Historic District
- Winklers Creek Watershed
- Extraterritorial Area

We Ask Your Help In Assuring Diversity Of Membership By Age, Gender, And Race, By Answering The Following Questions

- |                                       |  |
|---------------------------------------|--|
| Gender                                | Ethnic Background                          |
| <input checked="" type="radio"/> Male | <input type="radio"/> African American     |
| <input type="radio"/> Female          | <input checked="" type="radio"/> Caucasian |
|                                       | <input type="radio"/> Hispanic             |
|                                       | <input type="radio"/> Other                |
|                                       | <input type="radio"/> Native American      |

Please List (In Order Of Preference) The Boards/Commissions On Which You Would Be Willing To Serve.

1.
2.
3.

Volunteer Application  
Watauga County Boards And Commissions  
(Continued)

Please list any work, volunteer, and/or other experience you would like to have considered in the review of your application.

Work  
Experience:

- SUGAR MTN. FIRE PATROL
- LINNELL RIDGE GOLF COURSE MAINTENANCE
- SOMMERTON'S PURSE
- ENGLISH CONSTRUCTION COMPANY
- REGULAR LANDSCAPE SUPPLIER

Volunteer  
Experience:

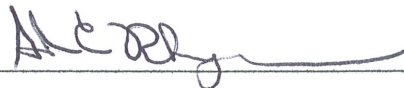
- BLUE RIDGE LEAD ROVER CLUB
- SUGAR MTN. FIRE PATROL
- MEALS ON WHEELS
- 

Other  
Experience:

Other  
Comments:

I AM READY TO SERVE IN ANY MANNER  
TO HELP BETTER ~~THE~~ WATAUGA COUNTY.

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



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

10/1/12

Blank Page

**AGENDA ITEM 10:****MISCELLANEOUS ADMINISTRATIVE MATTERS*****G. Announcements*****MANAGER'S COMMENTS:**

High Country United Way is hosting two Luncheons during which High Country Vision Councils will share visions in education, income, and health. Both will be held from 12:00 P.M. until 1:30 P.M. with the first scheduled on Friday, October 26, 2012, at Avery County High School and the second scheduled for Wednesday, October 31, 2012, in the Watauga Medical Center Auditorium. If you wish to attend, the Clerk will be happy to RSVP on your behalf.

A Household Hazardous Waste Day will be held for Watauga County Citizens from 9:00 A.M. until 2:00 P.M. on Saturday, October 27, 2012, at the Watauga County Sanitation Department located on Landfill Road.

Operation Medicine Cabinet will also be held on Saturday, October 27, 2012, from 10:00 A.M. until 2:00 P.M. All prescription and over-the-counter medications will be accepted for disposal with no question asked. This event will take place at both Foscoe and Beaver Dam Volunteer Fire Departments and the three Food Lions (located in Boone, Blowing Rock, and Deep Gap).

**BE PART OF THE CHANGE**

**Join us as the High Country Vision Councils  
Share their visions in Education, Income and Health  
And how we all can *be part of the change* in our communities**

**Be our guest for lunch  
Noon—1:30 pm**

**Friday, October 26, 2012  
Avery County High School  
401 Avery Co. HS Rd., Newland, NC**

*or*

**Wednesday, October 31, 2012  
Watauga Medical Ctr Auditorium  
336 Deerfield Rd., Boone, NC**

**Hosted by High Country United Way**



**RSVP for lunch: email [hcuw@boone.net](mailto:hcuw@boone.net) or call 828-265-2111 by Oct. 23 for Oct. 26  
by Oct. 29 for Oct. 31**

**Anita.Fogle**

---

**From:** Lisa.Doty  
**Sent:** Friday, September 28, 2012 9:58 AM  
**To:** all.employees  
**Subject:** Household Hazardous Waste Day and Drug Take Back--SATURDAY, OCTOBER 27

### **Household Hazardous Waste Day**

**WHEN:** Saturday, Oct. 27, 9:00 a.m.—2:00 p.m.

**WHERE:** Watauga County Sanitation  
336 Landfill Road

**WHO:** Watauga County RESIDENTS ONLY  
NO COMMERCIAL WASTE

**WHAT:** Paint, Antifreeze, Ethylene, Gasoline, Lighter Fluid, Solid and Liquid Pesticides, Oxidizers, Cleaners. *Used Oil, Lead Acid Batteries, and Tube-like Fluorescent Bulbs are accepted at the Sanitation Dept. during regular business hours M—F, 8—4 and Sat., 8—12. Household Batteries and CFLs are accepted at all Convenience Centers.* These items also will be accepted during HHW event.

### **Operation Medicine Cabinet Drug Take-Back Day**

**WHEN:** Saturday, Oct. 27, 10:00 a.m.—2:00 p.m.

**WHERE:** Food Lions (Boone, Blowing Rock and Deep Gap)  
Foscoe Fire Department  
Beaverdam Fire Department

**WHAT:** All prescription and over-the-counter medications. **NO questions asked.**

Lisa Doty  
Watauga County Recycling Manager  
[lisa.doty@watgov.org](mailto:lisa.doty@watgov.org)  
828-265-4852

**AGENDA ITEM 11:**

**PUBLIC COMMENT**

**AGENDA ITEM 12:**

**BREAK**

**AGENDA ITEM 13:**

**CLOSED SESSION**

Attorney/Client Matters – G. S. 143-318.11(a)(3)