

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

**TUESDAY, JUNE 21, 2016  
5:30 P.M.**

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

<b>TIME</b>	<b>#</b>	<b>TOPIC</b>	<b>PRESENTER</b>	<b>PAGE</b>
5:30	1	CALL REGULAR MEETING TO ORDER		
	2	APPROVAL OF MINUTES: June 6, 2016, Regular Meeting June 6, 2016, Closed Session		1
	3	APPROVAL OF THE JUNE 21, 2016 AGENDA		13
5:35	4	PUBLIC HEARING TO ALLOW CITIZEN COMMENT ON PROPOSED AMENDMENTS TO AN ORDINANCE TO REGULATE LOUD DISTURBING NOISE AND ACTIVITIES		15
5:40	5	PROPOSED CONTRACT FOR INMATE PHONE SERVICES	CAPTAIN AL REED	19
5:45	6	MISCELLANEOUS ADMINISTRATIVE MATTERS	MR. DERON GEOUQUE	
		A. Proposed Renewal of ASU Greenhouse Lease		33
		B. July Meeting Schedule Discussion		43
		C. Boards and Commissions		45
		D. Announcements		47
5:55	7	PUBLIC COMMENT		48
6:55	8	BREAK		48
7:00	9	CLOSED SESSION Attorney/Client Matters – G. S. 143-318.11(a)(3)		48
7:15	10	ADJOURN		

**AGENDA ITEM 2:**

**APPROVAL OF MINUTES:**

June 6, 2016, Regular Meeting

June 6, 2016, Closed Session

**DRAFT****MINUTES****WATAUGA COUNTY BOARD OF COMMISSIONERS  
TUESDAY, JUNE 6, 2016**

The Watauga County Board of Commissioners held a regular meeting, as scheduled, on Tuesday, June 6, 2016, at 8:30 A.M. in the Commissioners' Board Room of the Watauga County Administration Building, Boone, North Carolina.

PRESENT: Jimmy Hodges, Chairman  
David Blust, Vice-Chairman  
Billy Kennedy, Commissioner  
John Welch, Commissioner  
Perry Yates, Commissioner  
Stacy C. Eggers, IV, County Attorney  
Deron Geouque, County Manager  
Anita J. Fogle, Clerk to the Board

Chairman Hodges called the meeting to order at 8:30 A.M.

Commissioner Yates opened the meeting with a prayer and Commissioner Welch led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Chairman Hodges called for additions and/or corrections to the May 17, 2016, regular meeting and closed session minutes.

Commissioner Kennedy, seconded by Commissioner Yates, moved to approve the May 17, 2016, regular meeting minutes as presented.

VOTE: Aye-5  
Nay-0

Commissioner Kennedy, seconded by Commissioner Yates, moved to approve the May 17, 2016, closed session minutes as presented.

VOTE: Aye-5  
Nay-0

**APPROVAL OF AGENDA**

Chairman Hodges called for additions and/or corrections to the June 6, 2016, agenda.

Commissioner Kennedy, seconded by Vice-Chairman Blust, moved to approve the June 6, 2016, agenda as presented.

VOTE: Aye-5  
Nay-0

### **RIVER’S WALK PRESENTATION**

Mr. Jim Deal, with the developers of the River’s Walk project on the corner of River and Water Street, presented a general site plan for the project. Mr. Deal stated that the project would go to the Town Council on June 16 and to the Planning Commission next month.

The plan shows the potential for access to the project through County owned property. At this time, staff believes the presentation is for information only; however the developer is likely gauging the County’s reaction to allowing access through County property.

### **JUVENILE CRIME PREVENTION COUNCIL (JCPC) FY 2017 CERTIFICATION, MEMBERSHIP, AND COUNTY PLAN**

Ms. Pan Adams-McCaslin presented the Juvenile Crime Prevention Council (JCPC) Certification and County Plan as well as the membership roster for FY 2017.

Commissioner Welch, seconded by Commissioner Yates, moved to approve certification, the County Plan and membership as presented by Ms. Adams-McCaslin.

VOTE: Aye-5  
Nay-0

Commissioner Yates, seconded by Commissioner Welch, moved to retroactively waive the second reading of the JCPC membership roster as presented by Ms. Adams-McCaslin.

VOTE: Aye-5  
Nay-0

### **SMOKY MOUNTAIN CENTER’S COMMUNITY REINVESTMENT PLAN**

The Smoky Mountain LME/MCO presentation was tabled to a future meeting as Ms. Shelly Foreman was not able to be at the meeting.

### **PROPOSED PROCLAMATION FOR ELDER ABUSE AWARENESS DAY**

Ms. Angie Boitnotte stated that Governor Pat McCrory has proclaimed May 8, 2016, through June 19, 2016, as Vulnerable Adult and Elder Abuse Awareness Month 2016. The Governor also proclaimed June 15, 2016, as World Elder Abuse Awareness Day. This timeframe ties the awareness period to both the Mother’s Day and Father’s Day holidays, in the hopes of reinforcing the spirit of respecting and valuing, not just parents, but all elders.

Ms. Betsy Richards presented a proposed proclamation declaring June 15, 2016, as “World Elder Abuse Awareness Day” in North Carolina for consideration.

Commissioner Kennedy, seconded by Vice-Chairman Blust, moved to adopt the proclamation as presented.

VOTE: Aye-5  
Nay-0

**REQUEST TO ACCEPT 2016 COMMUNITY WASTE REDUCTION AND RECYCLING GRANT**

Ms. Heather Bowen, Recycling Coordinator, presented a grant award from the North Carolina Department of Environmental Quality for consideration of acceptance. The purpose of the grant is to assist in the purchase of four (4) closed top roll off containers to collect recycling materials at county schools. The containers would be placed at Cove Creek, Mabel, and Bethel elementary schools with the fourth being used as a switch out.

Ms. Bowen stated that the grant is in the amount of \$20,000 with a local match of \$5,790.80 which would be paid by Watauga County School System. The matter was discussed during the annual budget process and the proposed FY 2016-2017 budget includes funds for this project.

Commissioner Yates, seconded by Commissioner Welch, moved to accept the grant from the North Carolina Department of Environmental Quality in the amount of \$20,000 with the \$5,790.80 match to be paid by the Watauga County School System.

VOTE: Aye-5  
Nay-0

**MAINTENANCE MATTERS**

***A. Bid Award Request for Detention Center Floor Recoating***

Mr. Robert Marsh, Maintenance Director, presented bids for epoxy floor finishes for areas in the detention facility. The following bids were received:

<u>Bidder</u>	<u>Amount</u>
Custom Coatings	\$30,400
Turner Baxter	\$28,713
Prime Coat	\$47,930
1 Call Home and Property Enhancements	\$42,413
Gardner Paint Service, Inc.	No response
Carolina Floor Coatings	No response
Sure Step Coatings	No response

Mr. Marsh stated that Custom Coatings was the lowest responsive bidder in the amount of \$30,400. While Turner Baxter was the lowest bidder the bid was not responsive to the requirements as set forth for finishing the areas. Adequate funds are available in the current budget.

Commissioner Kennedy, seconded by Vice-Chairman Blust, moved to award the bid to Custom Coatings in the amount of \$30,400 for epoxy floor finishing in areas of the detention facility.

VOTE: Aye-5  
Nay-0

***B. Bid Award Request for Anderson Building Roof Project***

Mr. Robert Marsh, Maintenance Director, presented bids for the replacement of the roof at the old AppalCART facility. The following bids were received:

<u>Bidder</u>	<u>Amount</u>
LaFave's Construction	\$158,777
Interstate Roofing	\$211,000
Piedmont Commercial Roofing, Inc.	\$240,000

Mr. Marsh stated that LaFave Construction was the lowest responsive bidder in the amount of \$158,777. This will be the first phase in the remodeling of the facility that will eventually house the County's Maintenance Department and the License Plate Agency. Funds have been identified in the current fiscal year budget to cover the cost of the project.

Commissioner Yates, seconded by Commissioner Welch, moved to award the bid for a new roof on the Anderson Building (old AppalCART facility) to LaFave Construction in the amount of \$158,777.

VOTE: Aye-5  
Nay-0

***C. Bid Award Request for Anderson Building Paving***

Mr. Robert Marsh, Maintenance Director, presented bids for paving at the old AppalCART facility. The following bids were received:

<u>Bidder</u>	<u>Amount</u>
Moretz Paving	\$30,734
Champion Paving, Inc.	\$33,200
Carl Rose & Sons, Inc.	\$29,750
Tri-County Paving	\$25,591.24
Main and Main Paving	Non-Responsive
Sterling McDiarmid Paving	Non-Responsive
Boone Paving and Asphalt	Non-Responsive

Mr. Marsh stated that Tri-County Paving was the lowest responsive bidder in the amount of \$25,591.24. The paving was not scheduled to proceed until the new roof replacement has been completed.

Vice-Chairman Blust, seconded by Commissioner Kennedy, moved to award the bid for paving at the Anderson Building (old AppalCART facility) to Tri-County Paving in the amount of \$25,591.24.

VOTE: Aye-5  
Nay-0

## **TAX MATTERS**

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

Tax Administrator Larry Warren presented the Tax Collections Report for the month of May 2016. This report was presented for information only and, therefore, no action was required.

### ***B. Refunds and Releases***

Mr. Warren presented the Refunds and Releases Report for May 2016 for Board approval:

TO BE TYPED IN MINUTE BOOK

Commissioner Kennedy, seconded by Commissioner Yates, moved to approve the Refunds and Releases Report for May 2016, as presented.

VOTE: Aye-5  
Nay-0

## **FINANCE MATTERS**

### ***A. Budget Amendments***

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

Account #	Description	Debit	Credit
104199-499100	Administrative Contingency		\$15,238
105890-463120	Green Valley Park	\$3,200	
105890-463104	Watauga County Arts Council	\$12,038	

The amendment transferred funds for gravel for Green Valley Park and renovations for Watauga Arts Council.

243102-312100	Boone Rural Current Year Tax Revenue		\$8,000
243102-312108	Shawneehaw Special Current Tax Revenue		\$400
283102-312104	Beaver Dam Current Year Tax Revenue		\$1,500
283102-312106	Zionville Current Year Tax Revenue		\$3,000
283102-312108	Shawneehaw Current Tax Revenue		\$1,000
283102-312109	Meat Camp Current Year Tax Revenue		\$6,000
283102-312110	Deep Gap Current Year Tax Revenue		\$3,000
283102-312119	Creston Current Year Tax Revenue		\$300
244340-469905	Boone Rural	\$8,000	

244340-469908	Shawneehaw Special	\$400
284340-469904	Beaver Dam	\$1,500
284340-469906	Zionville	\$3,000
284340-469908	Shawneehaw	\$1,000
284340-469909	Meat Camp	\$6,000
284340-469910	Deep Gap	\$3,000
284340-469919	Creston	\$300

The amendment recognized additional projected property tax revenues above the original budgeted amount.

103200-323100	Sales Tax Revenue		\$114,562
104330-469100	Professional Services-Adults	\$700	
104330-469901	Foscoe Fire	\$14,062	
104330-469903	Fall Creek	\$150	
104330-469904	Beaver Dam Fire	\$879	
104330-469905	Boone Fire	\$26,364	
104330-469906	Zionville Fire	\$4,556	
104330-469907	Cove Creek Fire	\$11,011	
104330-469910	Meat Camp Fire	\$10,119	
104330-469911	Todd Fire	\$2,223	
104330-469912	Blowing Rock Fire	\$23,718	
104330-469913	Shawneehaw Fire	\$3,615	
104330-469924	Deep Gap Fire	\$17,165	

The amendment allocated funds which were above the original projected amounts for sales tax payments to fire departments.

103300-333000	JCPC Grant		\$20,615
105890-463144	WYN-Youth Resource Center	\$20,615	

The amendment recognized an additional allocation from the NC Department of Public Safety for Juvenile Crime Prevention Council programs through WYN. WYN provided the required match.

143531-323000	Federal/State Reimbursements		\$42,640
145410-440500	Undocumented Clients		\$41,360
145310-469101	DSS-Legal	\$80,000	
145370-469101	CSE-Legal	\$8,000	
145370-449901	CSE-Court Fees		\$3,500
145370-469102	CSE-Sheriff's Fees		\$500

The amendment recognized additional revenues from DHHS for increased expenditures in legal service due to additional cases above the estimated amount. The County's portion of expenses is available from reduced costs for undocumented clients.

143585-323000	Title XX Daycare Revenues		\$31,978
143585-323002	Smart Start Revenues		\$7,740
145850-440900	Title XX Daycare Expenditures	\$31,978	
145850-440901	Smart Start Daycare Expenditures	\$7,740	



The amendment recognized an additional allocation in daycare funds. No County funds were required.

145430-440800	State FC Standard		\$38,200
145410-440003	IVE FC Standard	\$38,200	

The amendment allocates funds between foster care standard lines due to changes in client categories from estimates.

145390-440300	Adoption Assistance IVE	\$16,000	
145460-440500	Special Assistance to the Blind	\$71	
145410-440500	Undocumented Clients		\$16,071

The amendment allocated funds for program needs above the available maximum State reimbursement.

Commissioner Yates, seconded by Commissioner Welch, moved to approve the budget amendments as presented by Ms. Pierce.

VOTE: Aye-5  
Nay-0

***B. Proposed Irrevocable Trust Agreement for Law Enforcement Officers' Special Separation Allowance***

Ms. Margaret Pierce, Finance Director, presented a proposed Irrevocable Trust Agreement for the assets pertaining to the Law Enforcement Officers' Special Separation Allowance (LEOSSA). A proposed Resolution for the Execution of Required Trust Agreement for Law Enforcement Officers' Special Separation Allowance Benefits was also presented. The Trust agreement is required by GASB 68 and 73. The agreement is similar to the trust and resolution previously adopted for post-employment benefits (medical insurance for retirees).

Commissioner Yates, seconded by Vice-Chairman Blust, moved to adopt the Resolution for the Execution of Required Trust Agreement for Law Enforcement Officers' Special Separation Allowance Benefits and approve the Irrevocable Trust Agreement as presented.

VOTE: Aye-5  
Nay-0

***C. Proposed Agreement with Town of Beech Mountain Fire***

Ms. Margaret Pierce, Finance Director, presented a proposed contract between the County and the Town of Beech Mountain Fire Department for fire service protection.

Commissioner Yates, seconded by Vice-Chairman Blust, moved to approve the contract with the Town of Beech Mountain for fire service protection as presented.

VOTE: Aye-5  
Nay-0

**PROPOSED AMENDMENTS TO AN ORDINANCE TO REGULATE LOUD DISTURBING NOISE AND ACTIVITIES**

Commissioner Yates stated that he had received several complaints regarding two issues in An Ordinance to Regulate Loud Disturbing Noise and Activities.

County Manager Geouque reviewed the proposed amendments which would consist of removing the following (denoted with strikethrough bold text):

1. Subject to the provisions of this section, it is prohibited to create, cause, or allow any unreasonably loud, disturbing noise that is plainly audible. To wit: any sound that is clearly and unambiguously communicated to a listener without the aid of any listening device, ~~particularly, but not exclusively~~ between the hours of 11 pm and 7 am. Noise of such character, intensity, and duration as to be detrimental to the health, safety, or welfare of any reasonable person in the vicinity is prohibited.

and . . .

- 2.h. ~~Owning, possessing, harboring, or allowing any dog, bird or other animal which by frequent or habitual howling, barking, yelping or creating other unreasonably loud disturbing noise continuously or incessantly so as to disturb the quiet comfort or repose of any person in the vicinity.~~

Commissioner Kennedy, seconded by Commissioner Yates, moved to schedule a public hearing for June 21, 2016, at 5:30 P.M. to allow citizen comment on the proposed amendments.

VOTE: Aye-5  
Nay-0

**ADOPTION OF THE FISCAL YEAR 2017 BUDGET ORDINANCE**

County Manager Geouque presented the Fiscal Year 2017 Budget Ordinance for consideration. Below is a list of changes that were requested by the Board and which have been incorporated into the proposed budget:

<b><i>General Fund</i></b>	
• Remove 3% from BCC COLA	\$ (1,222)
• Increase Children’s Playhouse	\$ 1,223
• Increase W.A.M.Y. Community Action	\$ 2,500
• Reduced General Admin Miscellaneous Expenses	\$ 2,500 Net Change

Commissioner Welch requested that the promotion of the Sargent position to a Lieutenant as requested by Sheriff Hagaman be included in the budget. In addition, Commissioner Welch requested funds from the Administrative Contingency Fund be reserved for a 2% supplement increase for school personnel. The approximate amount was \$40,000, including benefits.

Commissioner Welch also recommended the County have a pay study performed in an effort to assure that County employees are paid fair market value.

After discussion, the Board agreed that a pay plan study would be beneficial and the promotion in the Sheriff's Office should be delayed until the completion of the study. The Board further agreed to reserve \$40,000 from the Administrative Contingency Fund for a 2% supplement increase which included benefits for school personnel.

However, the \$40,000 set aside for the supplement increase including benefits would be contingent upon the \$228,688 COLA set aside being sufficient to cover the State recommended increase for school personnel. In the event that the State recommended COLA increase exceeded the \$228,688 set aside, the \$40,000 reserved for the supplement increase would be used to cover the amount over the \$228,688.

After lengthy discussion, Vice-Chairman Blust, seconded by Commissioner Yates, moved to adopt the Fiscal Year 2017 Budget Ordinance as presented.

VOTE: Aye-5  
Nay-0

## **MISCELLANEOUS ADMINISTRATIVE MATTERS**

### ***A. Proposed Fiscal Year 2017 AppalCART Contracts***

County Manager Geouque presented AppalCART contracts for transportation services for the Project on Aging and Social Services Departments for FY 2017. The proposed rates remained the same as the current year for both agencies at \$1.45 per vehicle mile.

Vice-Chairman Blust, seconded by Commissioner Yates, moved to approve the FY 2017 contracts with AppalCART for transportation services with the Project on Aging and Department of Social Services as presented.

VOTE: Aye-5  
Nay-0

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

County Manager Geouque stated that there are five upcoming vacancies on the Economic Development Commission. Three of the vacancies are to fill three-year terms which will expire June, 2019; one of the three is currently occupied by Doug McGuire, who is willing to be reappointed. Volunteer applications were previously received from Ray Cameron and Tad Dolbier, both of whom remain interested in serving.

Additionally, one vacancy is an unfulfilled term expiring June, 2017, and another is an unfulfilled term expiring June, 2018. Those seats were occupied by individuals who moved from Watauga County. The EDC has fourteen members; nine are appointees, the other five serve by virtue of their organizations, including one Commissioner. All members vote.

Commissioner Yates, seconded by Vice-Chairman Blust, moved to waive a second reading, to reappoint Mr. Doug McGuire, and to appoint Mr. Ray Cameron and Mr. Tad Dolbier to fill the three three-year terms with an expiration date of June 2019.

VOTE: Aye-5  
Nay-0

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

County Manager Geouque announced that the Extension Administration team of the Cooperative Extension Program at North Carolina Agricultural and Technical State University will be in Watauga County as part of a two-day tour of Western North Carolina on June 15 and 16. Commissioners are invited to a County Partnership Luncheon on Wednesday, June 15, 2016, from 12:30 P.M. to 2:15 P.M. at the Watauga Agricultural Conference Center.

### **PUBLIC COMMENT**

The following spoke during public comment regarding noise from the race track on Roby Greene Road: Mr. Lee Stroupe and Ms. Annette Reeves. Mr. Glenn Weaver had also signed up to speak but was not present during public comment time.

### **CLOSED SESSION**

At 10:15 A.M., Commissioner Kennedy, seconded by Vice-Chairman Blust, moved to enter Closed Session to discuss Attorney/Client Matters, per G. S. 143-318.11(a)(3), Economic Development – G. S. 143-318.11(a)(4), and Personnel Matters – G. S. 143-318.11(a)(6).

VOTE: Aye-5  
Nay-0

Commissioner Kennedy, seconded by Commissioner Welch, moved to resume the open meeting at 11:02 A.M.

VOTE: Aye-5  
Nay-0

### **ADJOURN**

Commissioner Kennedy, seconded by Commissioner Welch, moved to adjourn the meeting at 11:02 P.M.

VOTE: Aye-5  
Nay-0

Jimmy Hodges, Chairman

ATTEST:  
Anita J. Fogle, Clerk to the Board

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**AGENDA ITEM 3:**

**APPROVAL OF THE JUNE 21, 2016, AGENDA**

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**AGENDA ITEM 4:**

**PUBLIC HEARING TO ALLOW CITIZEN COMMENT ON PROPOSED AMENDMENTS TO AN ORDINANCE TO REGULATE LOUD DISTURBING NOISE AND ACTIVITIES**

**MANAGER’S COMMENTS:**

A public hearing has been scheduled to allow citizen comment on proposed amendments to the Watauga County Ordinance to Regulate Loud Disturbing Noise and Activities. The Noise Ordinance was recently re-written in July. The proposed changes are highlighted in red on the included copy. After the public hearing, the Board may wish to adopt the ordinance as presented, schedule a work session, or a joint meeting with the Planning Board.

Staff seeks direction from the Board.



State of North Carolina

County of Watauga

### AN ORDINANCE TO REGULATE LOUD DISTURBING NOISE AND ACTIVITIES

The Board of Commissioners for the county of Watauga, North Carolina, pursuant to G. S. 153A-133 hereby adopts this ordinance as follows:

1. Subject to the provisions of this section, it is prohibited to create, cause, or allow any unreasonably loud, disturbing noise that is plainly audible. To wit: any sound that is clearly and unambiguously communicated to a listener without the aid of any listening device, ~~particularly, but not exclusively~~ between the hours of 11 pm and 7 am. Noise of such character, intensity, and duration as to be detrimental to the health, safety, or welfare of any reasonable person in the vicinity is prohibited.
2. The following acts, among others, are declared to be loud disturbing noises in violation of this ordinance, but such enumeration shall not be deemed exclusive:
  - a. The use of any loud, boisterous or raucous language.
  - b. Noise emanating from a party or gathering in such volume and duration so as to disturb the quiet comfort or repose of any person in the vicinity.
  - c. The playing of any radio, television, audio device or amplification equipment at such a volume and duration so as to disturb the quiet comfort or repose of any person in the vicinity.
  - d. Intentional sounding of horns; the operation of any automobile, motorcycle, bus, or remote control device that creates loud or disturbing noise; or the operation of such vehicle or device without a muffler in good working order, so as to disturb the quiet comfort or repose of any person in the vicinity.
  - e. Operating or permitting the operation of any motor vehicle or motorcycle that engages in jackrabbit starts, spinning tires, racing engines, or other loud disturbing noises so as to disturb the quiet comfort or repose of any person in the vicinity.
  - f. The repair, rebuilding or testing of any motor vehicle or motorcycle which creates loud disturbing noise so as to disturb the quiet comfort or repose of any person in the vicinity.
  - g. The creation of excessive noise on any street adjacent to any school, institution of learning, library or sanitarium or court, while same is in session, or adjacent to any hospital or church during services.
  - h. ~~Owning, possessing, harboring, or allowing any dog, bird or other animal which by frequent or habitual howling, barking, yelping or creating other unreasonably loud disturbing noise continuously or incessantly so as to disturb the quiet comfort or repose of any person in the vicinity.~~
  - i. The operation of any airborne device, controlled remotely or otherwise, used in a

manner and to such a degree as to disturb, annoy or harass any reasonable person, or to disturb the quiet comfort or repose of any person in the vicinity.

3. The Watauga County Sheriff's Office shall be responsible for the enforcement of this ordinance. Violations shall constitute a Class 3 misdemeanor and may be punishable in accordance with NCGS §14-4 including a fine of up to five hundred (\$500) dollars.
4. A civil action seeking penalties; along with orders of abatement and injunction may be directed toward persons found responsible for creating noise or disturbances as defined herein.
5. The following uses and activities, among others, shall be exempt from the provisions of this ordinance. However, such enumeration shall not be deemed exclusive:
  - a. Noise resulting from farming operations, including but not limited to, farm machinery, farm equipment, and livestock.
  - b. Noise associated with normal operations of any facility properly licensed by the North Carolina Department of Agriculture, Veterinary Division as a boarding kennel, pet shop, dealer, or from any officially established animal shelter.
  - c. Noise associated with any legal operations of any firearms club or association.
  - d. Noise caused by the discharge of firearms by law enforcement officers in the performance or their official duties or during official firearms training.
  - e. Noise associated with any event held in recognition of a community celebration of national, state or county events or public festivals.
  - f. Non-amplified crowd noise.
  - g. Chimes or bells of businesses, schools, camps or religious institutions in the daylight hours that operate no longer than 10 minutes in any hour.
  - h. Emergency vehicles and signaling devices.
  - i. Noise associated with any fire alarm, security system, or any alarm designed to elicit a response from emergency services.
6. An Ordinance To Regulate Loud Disturbing Noise, As Amended, found in Watauga County Book of Ordinances #4, page 10, enacted July 22, 1986 is hereby repealed.
7. This ordinance shall be in effect on this the 20th day of July, 2015.

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**AGENDA ITEM 5:****PROPOSED CONTRACT FOR INMATE PHONE SERVICES****MANAGER'S COMMENTS:**

Captain Al Reed will request the Board consider a new vendor to provide inmate phone services. A copy of the proposed contract is included in the Board packet. Captain Reed has provided a memo detailing the reasons for changing providers. To date, the current amount paid out is \$38,038.78 with \$13,786.90 received in commissions for a net amount of \$24,251.88 paid to the vendor. Based on the new contract, staff is unable to provide potential expenditures and revenues that may be accrued. However, Captain Reed is of the understanding that Combined Public Communications (CPC) will double the County's phone commissions.

A copy of the current contract is included in the Board packet. According to Captain Reed, the required termination notice has been sent to Securus Technologies, Inc. Additionally, Captain Reed requested County Attorney review of the contract.

Board action is required to award the contract to Combined Public Communications for inmate phone services.



**SHERIFF'S OFFICE WATAUGA COUNTY**

**184 HODGES GAP RD, BOONE NC. 28607**

To whom it may concern: 6/14/2016

The following are the reasons for changing phone services for the inmate's personal use:

1. The company we have now Securus is violation out contract by not paying federal commissions owed to us that they are collecting and saying its FCC rules. This is not true.
2. They have several hidden fees which when the contract was made between the sheriff's office and Securus were not disclosed or who ever made the agreement didn't ask.
3. The reps for the securus company are out of Texas and when asked a question about hidden fees, the say there are none. I have seen the bill and there are several.
4. The actual amount we are getting from us of their service is only 27percent not the 50 percent the contract says.
5. The new company Combined public communications (CPC) has no hidden fees and pays fed commissions like the FCC says and is in accordance with all fed and state laws.
6. With CPC we will be getting a true 50 percent from regular phone calls along with the 50 percent of interstate (federal) phone calls which means that out phone commissions will more than double from what they are now.
7. I have went over with the sheriff ,Four Eggers and the county manager all of the above details and have gotten prior approval to go forward and have contract drawn up by the county attorney which is in the packet that you have in front of you.
8. Note there is a clause that I had put in which 90 days to cancel for any reason the phone service with no cost to the sheriff's office or the county.
9. The company Securus has been sent 2 notices one in Feb. and one in may saying that we are canceling their services with the county and they have not responded. There contract is up in the first part of July.

Respectfully

Capt.A.R.Reed

**Calling Rates:**

CPC will charge telephone rates allowed by tariff, if applicable. The rates may be amended by CPC and the customer.

**Liability:**

CPC will have no liability for damage to Customer's premises from the installation, use or removal of the inmate telecommunications system or associated equipment unless such damage is the result of negligence of CPC agents or employees. Customer shall have no liability to CPC for damage to CPC's equipment unless such damage is the result of the negligence of Customer.

**Indemnification:**

As further consideration for this agreement for installation of inmate telephones in the jail, CPC hereby agrees to indemnify and hold harmless the Customer in any and all claims arising by reason of allegations of excessive charges in violation of any state or federal statute or regulatory ruling. In the event of future legislation or administrative regulation materially alters the charges which may be made by CPC, CPC agrees to abide by any such statute or ruling and bring their conduct of charges into compliance with said authority. In the event that any future legislation or administrative regulation materially alters the terms of this agreement, this Agreement shall, at the option of either party, be subject to termination or re-negotiation between the parties upon ninety days notice.

**Regulatory Changes:**

In the event that new and/or revised government regulations prevent CPC from providing commission or services to the Customer, CPC will have the right to renegotiate or terminate this Agreement with the Customer upon ninety days notice.

**Uncontrollable Circumstances:**

CPC reserves the right to renegotiate this Agreement if circumstances arise outside our control related to acts of God, change in call rates, regulations, operations mandated by law, reduction in inmate population or capacity, material changes in jail policy or economic conditions.

**Maintenance and Repair:**

CPC may remove or replace the inmate telecommunications system or associated equipment from any given location when damage to the system or associated equipment, whether by vandalism or otherwise, warrants removal. CPC, with the consent of Customer, may adjust the number of inmate telephones at the premise when in CPC's judgment the revenue generated by the existing inmate telephones warrants such adjustments. CPC shall insure that its equipment is tamper resistant and that its placement within the detention center will not result in increased risk to inmate or staff safety.

**Termination:**

Either party may terminate this Agreement in the event that the other party materially fails to perform its obligations under this Agreement and said material failure shall continue for a period of thirty (30) days after written notice to the defaulting party of said failure is given. In the event any governmental tariff or regulation prevents CPC from providing services or such tariffs or regulations make continuation of this agreement impractical for economic reasons or otherwise, then CPC at its sole discretion may terminate this Agreement without liability. In the event of a termination of this Agreement for any reason, the Customer agrees to allow CPC access to the facility in order to remove all associated equipment. CPC agrees to remove the equipment within thirty days after termination of this Agreement.

**Resolution of Disputes:**

This Agreement is entered into in Watauga County, North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. The parties hereby agree that the state courts located in Watauga County, North Carolina shall be the exclusive venue for the resolution of any disputes arising as a result of this Agreement.

**Non-Waiver:** The terms of this Agreement may be waived only in writing signed by the Party waiving compliance. Customer may enforce any provision of this Agreement at any time even if the Customer has not previously required CPC to perform all of CPC's obligations under this Agreement. The Customer's waiver of any of its rights arising from any breach of this Agreement by CPC shall not be considered as a waiver of any right arising from any subsequent breach.

**Assignment:** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by either Party hereto without the prior written consent of the other Party.

**No Strict Construction:** Neither Party will assert that it did not draft the words used in the Agreement so that any ambiguities are resolved against the Party that drafted the Agreement. This is a negotiated agreement, and the rule of strict construction will not be applied against either Party to this Agreement.

**Modification:** No changes, modifications, or amendments of any term shall be valid unless agreed upon by the Parties in writing.

**No Third Party Beneficiaries:** The obligations of each party to this Agreement shall inure solely to the benefit of the other party, and no person or entity shall be a third-party beneficiary to this Agreement.

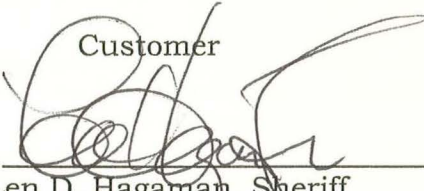
**Authority to Represent:** Each Party to this Agreement warrants and represents that they have the unrestricted right and prerequisite authority to enter into execute the Agreement, to bind the respective party, and to authorize the installation and operation of the equipment.

Furthermore, signing this document confirms to CPC that the detention facility described herein is not under a contract with any other inmate telephone provider. The undersigned has the authority and hereby directs Combined Public communications to install their inmate telephone system.

The rights and obligations of this Agreement will be binding and shall inure to the benefit of the respective parties, their subsequent owners, successors, heirs, and assignees.

**IN WITNESS WHEREOF**, the parties hereto intending to be legally bound, have executed this Agreement to be effective beginning on the day of \_\_\_\_\_, 2016 (The Commencement date). Any and all previous contracts and agreements entered into between these parties are null and void.

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Customer  
By:   
Len D. Hagaman, Sheriff  
Watauga County Sheriff's Office

CPC  
By: \_\_\_\_\_  
\_\_\_\_\_  
Combined Public Communications  
\_\_\_\_\_  
Print Name and Title

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

\_\_\_\_\_  
Watauga County Finance Officer





**Master Services Agreement**  
**WATAUGA COUNTY NC ( NC )**  
**A301379**  
**Option A**

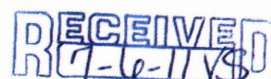
This Master Services Agreement (this "Agreement") is by and between WATAUGA COUNTY NC ("Customer") and Securus Technologies, Inc., ("we," "us," or "Provider"). This Agreement supersedes any and all other agreements (oral, written, or otherwise) that may have been made between the parties and shall be effective as of the last date signed by either party (the "Effective Date").

Whereas the Customer desires that Provider install an inmate telecommunication system and provide telecommunications and maintenance services according to the terms and conditions in this Agreement according to the Schedule and Work Orders, which are incorporated by reference into this Agreement;

Whereas the Provider agrees to install the inmate telecommunications system and provide telecommunications and maintenance services according to the terms and conditions in this Agreement and the Schedule and Work Orders, which are incorporated by reference into this Agreement;

Now therefore, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Applications. This Agreement specifies the general terms and conditions under which we will perform certain inmate-related services and applications (the "Application(s)") for you. Additional terms and conditions with respect to the Applications will be specified in the schedules entered into by the parties and attached hereto (the "Schedules"). The Schedules are incorporated into this Agreement and are subject to the terms and conditions of this Agreement. In the event of any conflict between this Agreement and a Schedule, the terms of the Schedule shall govern. In the event of any conflict between any two Schedules for a particular Application, the latest in time shall govern.
2. Use of Applications. You grant us the exclusive right and license to install, maintain, and derive revenue from the Applications through our inmate systems (including, without limitation, the related hardware and software) (the "System") located in and around the inmate confinement facilities identified on the Schedules (the "Facilities"). You are responsible for the manner in which you use the Applications. Unless expressly permitted by a Schedule or separate written agreement with us, you will not resell the Applications or provide access to the Applications (other than as expressly provided in a particular Schedule), directly or indirectly, to third parties. During the term of this Agreement and subject to the remaining terms and conditions of this Agreement, Provider shall be the sole and exclusive provider of existing and any future inmate related communications, including but not limited to voice, video, and data (e.g., phone calls, video calls, messaging, prepaid calling cards, debit calling, and e-mail) at the Facilities in lieu of any other third party providing such inmate communications, including without limitation, Customer's employees, agents, or subcontractors.
3. Compensation. Compensation for each Application, if any, and the applicable payment addresses are as stated in the Schedules.
4. Term. The initial term of this Agreement (the "Initial Term") shall begin on the Effective Date and shall end on the date that is 48 months thereafter. Unless one party delivers to the other written notice of non-renewal at least ninety (90) days before the end of the then current term, this Agreement shall automatically renew for successive periods of 12 months each. Notwithstanding anything to the contrary, the terms and conditions of this Agreement shall continue to apply to each Schedule for so long as we continue to provide the Application to you after the expiration or earlier termination of this Agreement.
5. Service Level Agreement and Limited Remedy. We are committed to providing you with reliable, high quality Applications and we offer certain assurances about the quality of our Applications (the "Service Level Agreement"). The Service Level Agreement for each Application is as set forth in the applicable Schedule. THE SERVICE LEVEL AGREEMENT SETS FORTH THE SOLE AND EXCLUSIVE REMEDIES FOR FAILURE OR DEFECT OF AN APPLICATION. WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND NONINFRINGEMENT.
6. Software License. We grant you a personal, non-exclusive, non-transferable license (without the right to sublicense) to access and use certain proprietary computer software products and materials in connection with the Applications (the "Software"). The Software includes any upgrades, modifications, updates, and additions to existing features that we implement in our discretion (the "Updates"). Updates do not include additional features and significant enhancements to existing features. You are the license holder of any third-party software products we obtain on your behalf. You authorize us to provide or preinstall the third-party software and agree that we may agree to the third-party End User License Agreements on your behalf. Your rights to use any third-party software product that we provide shall be limited by the terms of the underlying license that we obtained for such product. The Software is to be used solely for your internal business purposes in connection with the Applications at the Facilities. You will not (i) permit any parent, subsidiary, affiliated entity, or third party



to use the Software, (ii) assign, sublicense, lease, encumber, or otherwise transfer or attempt to transfer the Software or any portion thereof, (iii) process or permit to be processed any data of any other party with the Software, (iv) alter, maintain, enhance, disassemble, decompile, reverse engineer or otherwise modify the Software or allow any third party to do so, (v) connect the Software to any products that we did not furnish or approve in writing, or (vi) ship, transfer, or export the Software into any country, or use the Software in any manner prohibited by the export laws of the United States. We are not liable with regard to any Software that you use in a prohibited manner.

7. Ownership and Use. The System, the Applications, and related records, data, and information shall at all times remain our sole and exclusive property unless prohibited by law, in which event, we shall have the unlimited right to use such records, data, and information for investigative and law enforcement purposes. However, during the term of this Agreement and for a reasonable period of time thereafter, we will provide you with reasonable access to the records. We (or our licensors, if any) have and will retain all right, title, interest, and ownership in and to (i) the Software and any copies, custom versions, modifications, or updates of the Software, (ii) all related documentation, and (iii) any trade secrets, know-how, methodologies, and processes related to our Applications, the System, and our other products and services (the "Materials"). The Materials constitute proprietary information and trade secrets of Provider and its licensors, whether or not any portion thereof is or may be the subject of a valid copyright or patent.

8. Legality/Limited License Agreement. For services related to Applications which may allow you to monitor and record inmate or other administrative telephone calls, or transmit or receive inmate electronic messages ("e-mail"); by providing the Application, we make no representation or warranty as to the legality of recording or monitoring inmate or administrative telephone calls or transmitting or receiving inmate e-mail messages. Further, you retain custody and ownership of all recordings, and inmate e-mail messages; however you grant us a perpetual limited license to compile, store, and access recordings or inmate calls and access inmate e-mail messages for purposes of (i) complying with the requests of officials at the Facility, (ii) disclosing information to requesting law enforcement and correctional officials as they may require for investigative, penological or public safety purposes, (iii) performing billing and collection functions, or (iv) maintaining equipment and quality control purposes. This license does not apply to recordings of inmate calls or e-mail messages with their attorneys or to recordings or e-mail messages protected from disclosure by other applicable privileges.

9. Confidentiality and Non-Disclosure. The System, Applications, and related call records and information (the "Confidential Information") shall at all times remain confidential to Provider. You agree that you will not disclose such Confidential Information to any third party without our prior written consent. Because you will be able to access confidential information of third parties that is protected by certain federal and state privacy laws through the Software and Applications, you shall only access the Software with computer systems that have effective firewall and anti-virus protection. Moreover, you acknowledge that the contents of this contract constitute proprietary trade secrets and represent that you have not disclosed the terms and conditions of this Agreement to anyone outside of your organization save your legal representative. You warrant that you will keep the terms and conditions of this Agreement confidential and, unless required by court order or statute, will not disclose such information without Provider's express written consent (except that you may disclose the contents of this Agreement to your attorney or tax advisor, if any, but only after informing those persons that they must keep confidential the information contained herein). Before complying with any such court order or statute, you agree to notify Provider so that it may assert any rights to non-disclosure that it may have under the applicable law.

10. Claims. To the fullest extent allowed by applicable law, each party by itself and/or its employees, agents, or contractors agrees to be responsible for any loss, cost, claim, liability, damage, and expense (including, without limitation, reasonable attorney's fees and expenses) (collectively "Claims") arising out of (i) a breach of its own representations, warranties, and/or covenants contained herein, or (ii) gross negligence or willful misconduct, or (iii) actual or alleged intellectual property infringement.

Furthermore, the parties understand and agree that each one is subject to federal, state, and local laws and regulations, and each party bears the burden of its own compliance. The Provider agrees to install and implement the Inmate Telephone System according to the law governing the Provider, the instruction it receives from the Customer as to the Customer's requirements under the law, and according to the Customer's facility's demographics. The Customer agrees to indemnify the Provider against any and all Claims arising out of or related to instruction Provider receives from the Customer.

11. Insurance. We maintain comprehensive general liability insurance having limits of not less than \$2,000,000.00 in the aggregate. You agree to provide us with reasonable and timely written notice of any claim, demand, or cause of action made or brought against you arising out of or related to the utilization of the Applications and the System in which the Provider is brought in as a co-defendant in the Claim. We have the right to defend any such claim, demand, or cause of action at our sole cost and expense and within our sole and exclusive discretion. You agree not to compromise or settle any claim or cause of action arising out of or related to the use of the Applications or System without our prior written consent, and you are required to assist us with our defense of any such claim, demand, or cause of action.

12. Default and Termination. If either party defaults in the performance of any obligation under this Agreement, then the non-defaulting party shall give the defaulting party written notice of its default setting forth with specificity the nature of the default. If the defaulting party fails to cure its default within thirty (30) days after receipt of the notice of default, then the non-defaulting party shall have the right to terminate this Agreement upon thirty (30) days written notice and pursue all other remedies available to the non-defaulting party, either at law or in equity. Notwithstanding the foregoing, the thirty (30) day cure period shall be extended to ninety (90) days if the default is not reasonably susceptible to cure within such thirty (30) day period, but only if the defaulting party has begun to cure the default during the thirty (30) day period and diligently pursues the cure of such default. Notwithstanding the foregoing, if you breach your obligations in the section entitled "Software License" or the

section entitled "Confidentiality", then we shall have the right to terminate this Agreement immediately.

13. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL HAVE ANY LIABILITY FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR INCOME, LOST OR CORRUPTED DATA, OR LOSS OF USE OR OTHER BENEFITS, HOWSOEVER CAUSED AND EVEN IF DUE TO THE PARTY'S NEGLIGENCE, BREACH OF CONTRACT, OR OTHER FAULT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR AGGREGATE LIABILITY TO YOU RELATING TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT WE PAID YOU DURING THE TWELVE (12) MONTH PERIOD BEFORE THE DATE THE CLAIM AROSE.

14. Uncontrollable Circumstance. We reserve the right to renegotiate or terminate this Agreement upon sixty (60) days advance written notice if circumstances outside our control related to the Facilities (including, without limitation, changes in rates, regulations, or operations mandated by law; material reduction in inmate population or capacity; material changes in jail policy or economic conditions; acts of God; actions you take for security reasons (such as lock-downs)) negatively impact our business; however, we shall not unreasonably exercise such right. Further, Customer acknowledges that Provider's provision of the services is subject to certain federal, state or local regulatory requirements and restrictions which are subject to change from time-to-time and nothing contained herein to the contrary shall restrict Provider from taking any steps necessary to perform in compliance therewith.

15. Injunctive Relief. Both parties agree that a breach of any of the obligations set forth in the sections entitled "Software License," "Ownership and Use," and "Confidentiality" would irreparably damage and create undue hardships for the other party. Therefore, the non-breaching party shall be entitled to immediate court ordered injunctive relief to stop any apparent breach of such sections, such remedy being in addition to any other remedies available to such non-breaching party.



16. Force Majeure. Either party may be excused from performance under this Agreement to the extent that performance is prevented by any act of God, war, civil disturbance, terrorism, strikes, supply or market, failure of a third party's performance, failure, fluctuation or non-availability of electrical power, heat, light, air conditioning or telecommunications equipment, other equipment failure or similar event beyond its reasonable control; provided, however that the affected party shall use reasonable efforts to remove such causes of non-performance.

17. Notices. Any notice or demand made by either party under the terms of this Agreement or under any statute shall be in writing and shall be given by personal delivery; registered or certified U.S. mail, postage prepaid; or commercial courier delivery service, to the address below the party's signature below, or to such other address as a party may designate by written notice in compliance with this section. Notices shall be deemed delivered as follows: personal delivery – upon receipt; U.S. mail – five days after deposit; and courier – when delivered as shown by courier records.

18. No Third-party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained herein shall operate only between the parties and shall inure solely to their benefit. The provisions of this Agreement are intended to assist only the parties in determining and performing their obligations hereunder, and the parties intend and expressly agree that they alone shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

19. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. No waiver by either party of any event of default under this Agreement shall operate as a waiver of any subsequent default under the terms of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected. This Agreement shall be binding upon and inure to the benefit of Provider and Customer and their respective successors and permitted assigns. Except for assignments to our affiliates or to any entity that succeeds to our business in connection with a merger or acquisition, neither party may assign this Agreement without the prior written consent of the other party. Each signatory to this Agreement warrants and represents that he or she has the unrestricted right and requisite authority to enter into and execute this Agreement, to bind his or her respective party, and to authorize the installation and operation of the System. Provider and Customer each shall comply, at its own expense, with all applicable laws and regulations in the performance of their respective obligations under this Agreement and otherwise in their operations. Nothing in this Agreement shall be deemed or construed by the parties or any other entity to create an agency, partnership, or joint venture between Customer and Provider. This Agreement cannot be modified orally and can only be modified by a written instrument signed by all parties. The parties' rights and obligations, which by their nature would extend beyond the termination, cancellation, or expiration of this Agreement, shall survive such termination, cancellation, or expiration (including, without limitation, any payment obligations for services or equipment received before such termination, cancellation, or expiration). This Agreement may be executed in counterparts, each of which shall be fully effective as an original, and all of which together shall constitute one and the same instrument. Each party agrees that delivery of an executed copy of this Agreement by facsimile transmission or by PDF e-mail attachment shall have the same force and effect as hand delivery with original signatures. Each party may use facsimile or PDF signatures as evidence of the execution and delivery of this Agreement to the same extent that original signatures can be used. This Agreement, together with the exhibits and Schedules, constitutes the entire agreement of the parties regarding the subject matter set forth herein and supersedes any prior or contemporaneous oral or written agreements or guarantees regarding the subject matter set forth herein.

**EXECUTED as of the Effective Date.**

<p><u>CUSTOMER:</u> WATAUGA COUNTY NC</p> <p>By: </p> <p>Name: <u>Nathan A. Miller</u></p> <p>Title: <u>Chairman</u></p> <p>Date: <u>6-28-11</u></p> <p><u>Customer's Notice Address and Phone Number:</u></p> <p>184 HODGES GAP RD BOONE, NC 28607</p> <p>Phone:</p>	<p><u>PROVIDER:</u> Securus Technologies, Inc.</p> <p>By: </p> <p>Name: Robert Pickens</p> <p>Title: Chief Operating Officer</p> <p>Date: <u>7-6-11</u></p> <p><u>Provider's Notice Address:</u></p> <p>14651 Dallas Parkway, Suite 600 Dallas, Texas 75254 Attention: General Counsel</p> <p>Phone: (972) 277-0300</p> <p><u>Provider's Payment Address:</u></p> <p>14651 Dallas Parkway, Suite 600 Dallas, Texas 75254 Attention: Accounts Receivable</p>
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**Please return signed contract to:**

14651 Dallas Parkway  
Sixth Floor  
Dallas, Texas 75254  
Attention: Contracts Administrator  
Phone: (972) 277-0300

This instrument has been preaudited in the manner required by the local Government Budget and Fiscal Control Act.

6-27-11   
Date Finance Director

**Schedule  
WATAUGA COUNTY NC ( NC )  
A301379  
Option A**

This Schedule is between Securus Technologies, Inc. ("we" or "Provider"), and WATAUGA COUNTY NC ("you" or "Customer") and is part of and governed by the Master Services Agreement (the "Agreement") executed by the parties. The terms and conditions of the Agreement are incorporated herein by reference. This Schedule shall be coterminous with the Agreement ("Schedule Effective Date").

A. Applications. We will provide the following Applications:

**CALL MANAGEMENT SYSTEM**

DESCRIPTION:

Secure Call Platform: Secure Call Platform ("SCP") provides through its centralized system automatic placement of calls by inmates without the need for conventional live operator services. In addition, SCP has the ability to (a) monitor and record inmate calls, (b) automatically limit the duration of each call to a certain period designated by us, (c) maintain call detail records in accordance with our standard practices, (d) automatically shut the System on or off, and (e) allow free calls to the extent required by applicable law. We will be responsible for all billing and collections of inmate calling charges but may contract with third parties to perform such functions. SCP will be provided at the Facilities specified in the chart below.

COMPENSATION:

Collect Calls. We will pay you commission (the "Commission") based on T - True Gross Revenues we earn through the completion of collect calls placed from the Facilities as specified in the chart below. Gross Revenues shall mean all gross billed revenues relating to completed collect calls generated by and through the Inmate Telecommunications System. Regulatory required and other items such as federal, state and local charges, taxes and fees, including transaction funding fees, transaction fees, credits, billing recovery fees, charges billed by non-LEC third parties, and promotional programs are excluded from revenue to the Provider. We shall remit the Commission for a calendar month to you on or before the 30th day after the end of the calendar month in which the calls were made (the "Payment Date"). All Commission payments shall be final and binding upon you unless we receive written objection within sixty (60) days after the Payment Date. Your payment address is as set forth in the signature block below. You shall notify us in writing at least sixty (60) days before a Payment Date of any change in your payment address.

FACILITIES AND RELATED SPECIFICATIONS:

Facility Name and Address	Type of Call Management Service	Commission Percentage	Revenue Base for Calculation of Commission	Commissions Payment Address
WATAUGA CO. SHERIFF'S OFFICE 184 HODGES GAP RD BOONE, NC 28607	SCP	Single: 50%	T - True Gross	814 WEST KING STREET BOONE, NC 28607
WATAUGA COUNTY DETENTION CENTER N 184 HODGES GAP RD BOONE, NC 28607	SCP	Single: 50%	T - True Gross	814 WEST KING STREET BOONE, NC 28607

\*The designated Commission percentage is contingent upon Customer's implementation of all products and payment methods described herein within ninety (90) days of the Effective Date (unless actions of Provider render such implementation within that timeframe impossible, in which case such implementation will be effected as soon as reasonably practicable). Should the Customer fail to implement all such products and payment methods within ninety (90) days of the Effective Date, the commission percentage is subject to renegotiation.

\*Changes will take effect on the first day of the month following receipt of written notice by the Customer. Notice must be signed by a person who has binding authority for the Customer and a copy delivered to:

**SECURUS TECHNOLOGIES, INC.  
CHIEF FINANCIAL OFFICER  
14651 DALLAS PARKWAY, SIXTH FLOOR  
DALLAS, TEXAS 75254**

Commissions are paid in one-month arrears and are not subject to retro-active payments or adjustments for notice delays.

## CENTRALIZED NET CENTRIC, VOIP, DIGITAL TRANSMITTED CALL MANAGEMENT SYSTEM

### DESCRIPTION:

Secure Calling Platform User Interface. We will provide you with the Software regarding the Secure Calling Platform Interface ("S-Gate User Interface") which may be used only on computers and other equipment that meets or exceeds the specifications in the chart below, which we may amend from time to time ("Compatible Equipment"), for a total of licensed users as specified in the attached Customer Statement of Work. Customer represents that (i) it will be responsible for distributing and assigning licenses to its end users; (ii) it will use the SCP User Interface for lawful purposes and shall not transmit, retransmit or store material in violation of any federal or state laws or regulation; and (iii) it will monitor and ensure that its licensed end users comply as directed herein.

Processor	Personal computer (PC) with a minimum 1 gigahertz (GHz) or processor clock speed recommended; Intel Pentium/Celeron family, or AMD K6/Athlon/Duron family, or compatible processor recommended higher
Operating System	Windows XP
Browser	Microsoft Internet Explorer 6.0 or better
Memory	At least 128 megabytes (MB) of RAM; 256 MB for optimum speed
Drive	CD-ROM or DVD drive
Display	Super VGA (1,024 x 768) or higher-resolution video adapter and monitor
Peripherals	Keyboard and Microsoft Mouse or compatible pointing device
Internet	Internet access

### SERVICE LEVEL AGREEMENT

We agree to repair and maintain the System in good operating condition (ordinary wear and tear excepted), including, without limitation, furnishing all parts and labor. All such maintenance shall be conducted in accordance with the service levels in Items 1 through 10 below. All such maintenance shall be provided at our sole cost and expense unless necessitated by any misuse of, or destruction, damage, or vandalism to any premises equipment by you (not inmates at the Facilities), in which case, we may recoup the cost of such repair and maintenance through either a Commission deduction or direct invoicing, at our option. You agree to promptly notify us in writing after discovering any misuse of, or destruction, damage, or vandalism to, the said equipment. If any portion of the System is interfaced with other devices or software owned or used by you or a third party, then we shall have no obligation to repair or maintain such other devices or software. This SERVICE LEVEL AGREEMENT does not apply to any provided *Openworkstation(s)* (see below). For the services contemplated hereunder, we may provide, based upon the facilities requirements, two types of workstations (personal computer/desktop/laptop/terminal): The "*Openworkstation*" is an open non-secured workstation which permits administrative user rights for facility personnel and allows the facilities an ability to add additional third-party software. Ownership of the *Openworkstation* is transferred to the facility along with a three-year product support plan with the hardware provider. We have no obligation to provide any technical and field support services for an *Openworkstation*. CUSTOMER IS SOLELY RESPONSIBLE FOR THE MAINTENANCE OF ANY OPENWORKSTATIONS(S).

- Outage Report; Technical Support. If either of the following occurs: (a) you experience a System outage or malfunction or (b) the System requires maintenance (each a "System Event"), then you will promptly report the System Event to our Technical Support Department ("Technical Support"). You may contact Technical Support 24 hours a day, seven days a week (except in the event of planned or emergency outages) by telephone at 866-558-2323, by email at TechnicalSupport@securustech.net, or by facsimile at 800-368-3168. We will provide you commercially reasonable notice, when practical, before any Technical Support outage.
- Priority Classifications. Upon receipt of your report of a System Event, Technical Support will classify the System Event as one of the following three priority levels:

Priority 1	30% or more of the functionality of the System is adversely affected by the System Event.
Priority 2	5% - 29% of the functionality of the System is adversely affected by the System Event.
Priority 3	5% or less of the functionality of the System is adversely affected by the System Event. Single and multiple phones related issues.

- Response Times. After receipt notice of the System Event, we will respond to the System Event within the following time periods:

Priority 1	2 hours
Priority 2	24 hours

Master Services Agreement - 6 of 9

Securus Technologies, Inc. - Proprietary & Confidential - Form 11.10

Priority 3	72 hours
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4. Response Process. In the event of a System Event, where the equipment is located on Customer premises, Technical Support will either initiate remote diagnosis and correction of the System Event or dispatch a field technician to the Facility (in which case the applicable regional dispatcher will contact you with the technician's estimated time of arrival), as necessary. In the event of a System Event occurs in the centralized SCP system, technical support will initiate remote diagnosis and correction of the System Event.
5. Performance of Service. All of our repair and maintenance of the System will be done in a good and workmanlike manner at no cost to you except as may be otherwise set forth in the Agreement. Any requested modification or upgrade to the System that is agreed upon by you and us may be subject to a charge as set forth in the Agreement and will be implemented within the time period agreed by the parties.
6. Escalation Contacts. Your account will be monitored by the applicable Territory Manager and Regional Service Manager. In addition, you may use the following escalation list if our response time exceeds 36 hours: first to the Technical Support Manager or Regional Service Manager, as applicable, then to the Director of Field Services, then to the Executive Director, Service.
7. Notice of Resolution. After receiving internal notification that a Priority 1 System Event has been resolved, a member of our management team will contact you to confirm resolution. For a Priority 2 or 3 System Event, a member of our customer satisfaction team will confirm resolution.
8. Monitoring. We will monitor our back office and validation systems 24 hours a day, seven days a week.
9. Required IGR. You are responsible for providing a dedicated isolated grounded receptacle ("IGR") for use in connection with the primary System. Upon request we will provide you with the specifications for the IGR. If you are unable to or do not provide the IGR, then we will provide the IGR on a time and materials basis at the installer's then-current billing rates, provided that we are not responsible for any delay caused by your failure to provide the IGR.
10. End-User Billing Services and Customer Care. Our Correctional Billing Services department will maintain dedicated customer service representatives to handle end-user issues such as call blocking or unblocking and setting up end-user payment accounts. The customer service representatives will be available during reasonable business hours Monday through Saturday by telephone at 800-844-6591, by email at Support@CorrectionalBillingServices.com, and by facsimile at 800-578-2627. In addition, we will maintain an automated inquiry system on a toll-free customer service phone line that will be available to end-users 24 hours a day, 7 days a week to provide basic information and handle most routine activities. We will also accept payments from end-users by credit card, check, and cash deposit (such as by money order or Western Union transfer).

### PREPAID CALLING CARDS

#### DESCRIPTION:

Upon receipt of your written request, we will provide you with inmate Prepaid Calling Cards for resale to inmates at the Facilities specified in the chart below. Prepaid Calling Cards are not returnable or refundable; all sales are final. Each Prepaid Calling Cards will be valid for no more than six (6) months from the date it is first used. The cards are subject to applicable local, state, and federal taxes plus any applicable per call surcharge fee. If you authorize us, we will deal with your third-party commissary operator ("Commissary Operator") for the sole purpose of selling Prepaid Calling Cards to you. If that is the case, you shall notify us in writing of any change in the identity of the Commissary Operator, which change shall be effective on the date that we receive the notice. Notwithstanding anything to the contrary, you will remain primarily liable for the payment for Prepaid Calling Cards sold to Commissary Operator on your behalf.

#### TAXES:

The face value of the Prepaid Calling Cards does not include any taxes or other fees. Provider will invoice Customer for each order of Prepaid Calling Cards. Customer agrees to pay invoice within thirty (30) days, including all applicable sales taxes and other regulatory charges. Customer may provide a Sales and Use Tax Resale Certificate to Provider stating that Customer will be responsible for charging the applicable taxes to the end-users and for remitting the collected taxes to the proper taxing jurisdictions. If Provider receives a Sales and Use Tax Resale Certificate from Customer, Provider will not charge applicable sales taxes on Customer invoices for Prepaid Calling Cards purchases.

#### COMPENSATION:

The face value of the Cards less the applicable percentage specified in the chart below plus any applicable sales tax and shipping charges shall be due and payable within thirty (30) days after the invoice date. After such thirty (30) day period, then we reserve the right to charge interest on the overdue amount at the lower of (a) fifteen percent (15%) per annum or (b) the maximum rate allowed by law and to deduct the invoice price of the Cards plus any accrued interest from any amounts we owe you until paid in full. If you authorize us in writing we will deduct amounts owed from your earned Commissions. If the amounts owed exceed the Commission for the relevant month or if, for any reason, the Agreement terminates or expires during the relevant month, then we will invoice you for the balance which shall be due within thirty (30) days after the date of the invoice. All applicable sales taxes will be charged on the invoiced amount of the Prepaid Calling Card sale, unless

customer provides us a valid reseller's certificate before the time of sale.

FACILITIES AND RELATED SPECIFICATIONS:

Facility Name and Address	Discount Percentage
WATAUGA CO. SHERIFF'S OFFICE 184 HODGES GAP RD BOONE, NC 28607	50.00%
WATAUGA COUNTY DETENTION CENTER N 184 HODGES GAP RD BOONE, NC 28607	50.00%

CALLING RATES

Provider will charge rates that are in compliance with state and federal regulatory requirements. International rates, if applicable, will vary by country.



**Exhibit A: Customer Statement of Work**

**WATAUGA COUNTY NC ( NC )**

**A301379**



**Option A**

This Customer Statement of Work is made part hereto and governed by the Master Services Agreement (the "Agreement") executed between Securus Technologies, Inc. ("we" or "Provider"), and WATAUGA COUNTY NC ("you" or "Customer"). The terms and conditions of said Agreement are incorporated herein by reference. This Customer Statement of Work shall be coterminous with the Agreement.

A. Applications. The parties agree that the Applications listed in the Service Schedule or below shall be provided and in accordance with the Service Level Agreements as described in the applicable section of the Service Schedule to the Agreement.

B. Equipment. We will provide the equipment/Applications in connection with the SCP services needed to support the required number and type of phones and other components and storage for 2 Year / Purge. Additional equipment or applications will be installed only upon mutual agreement by the parties, and may incur additional charges.

**EXECUTED as of the Effective Date.**

<p><u>CUSTOMER:</u> WATAUGA COUNTY NC</p> <p>By: </p> <p>Name: <u>Nathan W. Miller</u></p> <p>Title: <u>Chairman</u></p>	<p><u>PROVIDER:</u> Securus Technologies, Inc.</p> <p>By: </p> <p>Name: Robert Pickens</p> <p>Title: Chief Operating Officer</p>
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**Please return signed contract to:**

14651 Dallas Parkway  
Sixth Floor  
Dallas, Texas 75254  
Attention: Contracts Administrator  
Phone: (972) 277-0300

This instrument has been preaudited in the manner required by the local Government Budget and Fiscal Control Act.

6-27-11   
Date Finance Director

**AGENDA ITEM 6:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*A. Proposed Renewal of ASU Greenhouse Lease*

**MANAGER'S COMMENTS:**

At a previous Board meeting, preliminary approval was given to extend the lease with the Appalachian State University Foundation for the greenhouse located at the Watauga County Landfill.

Property owned by the County may be leased or rented for such terms and upon such conditions as the Board may determine, for up to ten (10) years. Property may be rented or leased only pursuant to a resolution of the Board authorizing the execution of the lease or rental agreement adopted at a regular Board meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at its next regular meeting.

The County Attorney has reviewed the contract in conjunction with the University Attorney. Board approval is required accept the lease with Appalachian State University as presented.

Staff seeks direction from the Board.

**STATE OF NORTH CAROLINA****COUNTY OF WATAUGA****Resolution of Watauga County Board of County Commissioners**

Pursuant to NCGS 160A-272, notice is hereby given that at the regular commissioner meeting of the Watauga County Board of County Commissioners on May 17, 2016, the Watauga County Board of County Commissioners adopted a resolution which authorized Deron T. Geouque, County Manger, of Watauga County to lease to the Appalachian State University Foundation, Inc., a certain property located adjacent to the Watauga County Methane Flare Station described as a point 2 feet from the Landfill Road directly south of the power pole proceeding east along Landfill Road 160 feet and heading due south from those two points to the Watauga County property line in Watauga County, North Carolina, for a term of three (3) years. The rent to be paid by the Appalachian State University Foundation to Watauga County during the term of the lease is One Dollar (\$1.00) per annum. The lease shall become effective ten (10) days after the publication of this notice and formal adoption of the lease by the Board of Commissioners.

ADOPTED this the 17th day of May, 2016.

Jimmy Hodges, Chairman  
Watauga County Board of County Commissioners

ATTEST:  
Anita Fogle, Clerk to the Board

# Appalachian

STATE UNIVERSITY

Office of General Counsel

ASU Box 32126  
Boone, NC 28608-2126

(828) 262-2751  
Fax: (828) 262-8056

May 5, 2016

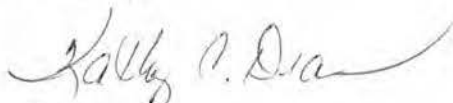
Deron Geouque  
Watauga County Manager  
814 West King Street  
Boone, NC 28607

RE: Commercial Lease Agreement

Dear Mr. Geouque:

You will find enclosed two originals of the Commercial Lease Agreement between Watauga County and Appalachian State University. Please sign documents and return one original to the above address.

Sincerely,



Kathy C. Deas  
Executive Assistant

/kcd

Enclosures

## COMMERCIAL LEASE AGREEMENT

THIS LEASE, made this 1st day of May 2016, by and between Watauga County, a body politic of the State of North Carolina (hereinafter referred to as "Landlord" and/or "County") whose address is 814 West King Street, Suite 205, Boone, North Carolina 28607, and Appalachian State University (hereinafter referred to as "Tenant" and/or "Appalachian"), a constituent institution of The University of North Carolina, whose address is 438 Academy Street, Boone, North Carolina 28608.

WHEREAS, Appalachian desires to lease space adjacent to the County's Methane Flare Stations to establish a greenhouse and research facility for use by its faculty members and students for training, workshops, public tours, research and other educational activities; and

WHEREAS, the County desires to lease property to Appalachian for the above stated purpose, subject to the following terms and conditions.

### WITNESSETH:

#### 1. LEASED PREMISES

The County, for and in consideration of the rents, covenants, agreements, and stipulations hereinafter mentioned, provided for and covenanted to be paid, kept and performed by Appalachian, leases and rents unto Appalachian, and Appalachian hereby leases and takes upon the terms and conditions which hereinafter appear, the following described property (hereinafter called the "Premises"), to wit:

Beginning at a point 2 feet from Landfill Rd. directly south of the power pole providing service to the Watauga County Animal Control Office, proceeding east along Landfill Rd. for a total of 360 feet and heading due south from those two points to the Watauga County property line.

#### 2. TERM.

Appalachian shall have and hold the Premises for a term of three (3) years beginning on the 1<sup>st</sup> day of May 2016, and ending on the 30<sup>th</sup> day of April 2019, at midnight, unless sooner terminated as hereinafter provided.

#### 3. RENTAL

Appalachian agrees to pay the County, without deduction or set off, an annual rental of One Dollar (\$1.00) per year, payable on the date of this Lease and each annual anniversary of that date during the term hereof. Upon execution of this Lease, Appalachian shall pay to the County the first year's rent due hereunder. Rental for any period during the term hereof which is less than one year shall be the pro-rated portion of the annual rental due.

#### 4. UTILITIES

- (a) Appalachian shall pay the following utilities: Electric and any other utility associated with Appalachian's use of the property.
- i. There is an unused electrical meter box that previously provided service to the blower/flare station. Appalachian will be responsible for contacting the utility company serving the site to set up an account and shall be responsible for all utilities associated with its use of the property;
  - ii. Appalachian will be responsible for contacting the Town of Boone to tap into the sewer line.
- (b) The County shall pay the following utilities: None

Responsibility to pay for a utility service shall include all metering, hook-up fees or other miscellaneous charges associated with the installation and maintenance of such utility in said party's name.

#### 5. COMMON AREA RULES AND REGULATIONS

Appalachian shall be subject to Rules and Regulations for the common areas of the County property as may be made from time to time by the County.

#### 6. USE OF PREMISES

The Premises shall be used to: operate a prototype greenhouse and to conduct research on biogas and biofuel production, solar electricity and solar hot water production, biochar production, greenhouse heating methods, aquaculture and associated technologies. The Premises shall not be used for any illegal purposes, nor in any manner to create any nuisance or trespass, nor in any manner to vitiate the insurance or increase the rate of insurance on the Premises. In the event Appalachian's use of the Premises results in an increase in the rate of insurance on the Premises, Appalachian shall pay to the County, upon demand and as additional rental, the amount of any such increase.

#### 7. LIABILITY; INSURANCE

Appalachian will be responsible for the negligent conduct of its officers and employees arising out of the performance of this Agreement to the extent permitted by the laws of North Carolina, including the North Carolina Tort Claims Act, the Defense of State Employees Act, and the excess liability insurance policy administered through the North Carolina Department of Insurance, subject to the availability of appropriations and in proportion to and to the extent that such liability for damages is caused by or results from the acts of Appalachian or its employees. Appalachian shall, during the term of this Lease and any extension or renewal thereof, and at Appalachian's expense, maintain in

full force and effect self-insurance with limits of at least One Million Dollars (\$1,000,000.00) per person under the North Carolina Tort Claims Act (N.C.G.S. § 143-291 *et seq.*) and excess liability insurance for its employees with limits of at least Ten Million Dollars (\$10,000,000.00) per occurrence.

#### **8. REPAIRS BY THE COUNTY**

The premises are being rented "as is" and the County shall have no obligation to repair any improvements thereon during the term of this lease.

#### **9. REPAIRS BY APPALACHIAN**

Appalachian accepts the Premises in their present condition and as suited for the uses intended by Appalachian. Appalachian shall, throughout the initial term of this Lease, and any extension or renewal thereof, at its expense, maintain in good order and repair the Premises.

Appalachian agrees to install, at its own cost, ADA complaint bathrooms at the facility within 150 days of the effective date of this Lease Agreement. The design of such facility must be acceptable to the County as set forth in Paragraph Ten, below, and shall be considered part of the real property upon completion.

#### **10. ALTERATIONS**

Appalachian shall not make any alterations, additions, or improvements to the Premises without the County's prior written consent. Appalachian shall promptly remove any alterations, additions, or improvements constructed in violation of this Paragraph upon the County's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner; in conformity will all applicable laws and regulations, free of any liens or encumbrances. The County may require Appalachian to remove any alterations, additions or improvements (whether or not made with the County's consent) at the termination of the Lease and to restore the Premises to its prior condition, all at Appalachian's expense. All alterations, additions and improvements which the County has not required Appalachian to remove shall become the County's property and shall be surrendered to the County upon the termination of this Lease, except that Appalachian may remove any of Appalachian's machinery, trade fixtures or equipment which can be removed without material damage to the Premises. Appalachian shall repair, at Appalachian's expense, any damage to the Premises caused by the removal of any such machinery, trade fixtures or equipment.

#### **11. REMOVAL OF FIXTURES**

Appalachian may (if not in default hereunder) prior to the expiration of this Lease, or any extension or renewal thereof, remove all fixtures and equipment which it has placed in the Premises, provided Appalachian repairs all damage to the Premises caused by such removal.

#### **12. GOVERNMENTAL ORDERS**

Appalachian agrees, at its own expense, to comply promptly with all requirements of any legally constituted public authority made necessary by reason of Appalachian's occupancy of the Premises. The County agrees to comply promptly with any such requirements if not made necessary by reason of Appalachian's occupancy. It is mutually agreed, however, between the County and Appalachian, that if in order to comply with such requirements, the cost to the County or Appalachian, as the case may be, shall exceed a sum which the respective party desires to pay, then the County or Appalachian, whichever is obligated to comply with such requirements, may terminate this Lease by giving written notice of termination to the other party by registered mail, which termination shall become effective ninety (90) days after receipt of such notice and which notice shall eliminate the necessity of compliance with such requirements by giving such notice.

### **13. ASSIGNMENT AND SUBLETTING**

Appalachian shall not, without the prior written consent of the County, which shall not be unreasonably withheld, assign this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than Appalachian. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of the County. The Assignee of Appalachian, at option of the County, shall become directly liable to the County for all obligations of Appalachian hereunder, but no sublease or assignment by Appalachian shall relieve Appalachian of any liability hereunder.

### **14. EVENTS OF DEFAULT**

The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of Appalachian: (a) Appalachian fails to pay the rental as provided for herein; (b) Appalachian abandons or vacates the Premises; and/or (c) Appalachian fails to comply with or abide by and perform any other obligation imposed upon Appalachian under this Lease.

### **15. REMEDIES UPON DEFAULT**

Upon the occurrence of an Event of Default, the County may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law; (a) if the Event of Default involves nonpayment of rental and Appalachian fails to cure such default with five (5) days after receipt of written notice thereof from the County, or if the Event of Default involves a default in performing any of the terms or provisions of this Lease other than the payment of rental and Appalachian fails to cure such default within thirty (30) days after receipt of written notice of default from the County, the County may terminate this Lease by giving written notice to Appalachian and upon such termination shall be entitled to recover from Appalachian damages as may be permitted under applicable law; or (b) if the Event of Default involves any matter other than those set forth in item (a) of this paragraph, the County may terminate



this Lease by giving written notice to Appalachian.

## **16. EXTERIOR SIGNS**

Appalachian shall place no signs on the Premises, except with the express written consent of the County. Any and all signs placed on the Premises by Appalachian shall be maintained in compliance with governmental rules and regulations governing such signs and Appalachian shall be responsible to the County for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

## **17. THE COUNTY'S ENTRY OF PREMISES**

The County may enter the Premises for any reasonable and necessary purpose, provided it is during reasonable hours.

## **18. WAIVER OF RIGHTS**

No failure of the County to exercise any power given the County hereunder or to insist upon strict compliance by Appalachian of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of the County's right to demand exact compliance with the terms hereof.

## **19. ENVIRONMENTAL LAWS**

(a) Appalachian shall not bring onto the Premises any Hazardous Materials (as defined below) without the prior written approval by the County. Any approval must be preceded by submission to the County of appropriate Material Safety Data Sheets (MSD Sheets). In the event of approval by the County, Appalachian covenants that it will (1) comply with all requirements of any constituted public authority and all federal, state, and local codes, statutes ordinances, rules and regulations, and laws, whether now in force or hereafter adopted, relating to Appalachian's use of the Premises, or relating to the storage, use, disposal, processing, distribution, shipping or sales of any hazardous, flammable, toxic, or dangerous materials, waste or substance, the presence of which is regulated by a federal, state, or local law, ruling, rule or regulation (hereafter collectively referred to as "Hazardous Materials"); (2) comply with any reasonable recommendations by the insurance carrier of either the County or Appalachian relating to the use by Appalachian on the Premises of such Hazardous Materials; (3) refrain from unlawfully disposing of or allowing the disposal of any Hazardous Materials upon, within, about or under the Premises; and (4) remove all Hazardous Materials from the Premises, either after their use by Appalachian or upon the expiration or earlier termination of this lease, in compliance with all applicable laws.

(b) Appalachian shall be responsible for obtaining all necessary permits in connection with its use, storage and disposal of Hazardous Materials, and shall develop and maintain, and where necessary file with the appropriate authorities, all reports, receipts, manifest, filings, lists and invoices covering those Hazardous Materials and Appalachian shall provide the County with copies

of all such items upon request. Appalachian shall provide, within five (5) days after receipt thereof, copies of all notices, orders, claims or other correspondence from any federal, state or local government or agency alleging any violation of any environmental law or regulation by Appalachian, or related in any manner to Hazardous Materials. In addition, Appalachian shall provide the County with copies of all responses to such correspondence at the time of the response.

(c) If Appalachian fails to comply with the Covenants to be performed hereunder with respect to Hazardous materials, or if an environmental protection lien is filed against the premises as a result of the actions of Appalachian, its agents, employees or invitees, then the occurrence of any such events shall be considered a default hereunder.

(d) Appalachian will give the County prompt notice of any release of Hazardous Materials, reportable or non-reportable, to federal, state or local authorities, of any fire, or any damage occurring on or to the Premises.

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

(f) The warranties and indemnities contained in this Paragraph shall survive the termination of this Lease.

## **20. ABANDONMENT**

Appalachian shall not abandon the Premises at any time during the Lease term. If Appalachian shall abandon the premises or be dispossessed by process of law, any Personal Property belonging to Appalachian and left on the Premises shall, at the option of the County, be deemed abandoned, and available to the County to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.

## **21. DEFINITIONS**

The "County" as used in this Lease shall include the undersigned, its representatives, assigns and successors in title to the Premises. "Agent" as used in this Lease shall mean the party designated as same in Paragraph 22, its representatives, assigns and successors. "Appalachian" shall include the undersigned and its representatives, assigns and successors, and if this lease shall be validly assigned or sublet, shall include also Appalachian's assignees or sublessees as to the Premises covered by such assignment or sublease. The "County", "Appalachian", and "Agent" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

## **22. NOTICES**

All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to

Appalachian shall be delivered or sent to the address shown at the beginning of this Lease, with a copy to Office of General Counsel, Appalachian State University, ASU Box 32126, Boone, NC 28608. Notices to the County shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address set forth in Paragraph 3 hereof.

*All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.*

**23. ENTIRE AGREEMENT**

This Lease contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Lease may not be modified except by a writing signed by all the parties hereto.

**24. AUTHORIZED LEASE EXECUTION**

Each individual executing this Lease as director, officer or agent of a party hereto represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of such party.

**IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the date and year first above written.**

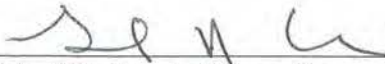
**LANDLORD:**

**TENANT:**

**WATAUGA COUNTY:**

**APPALACHIAN STATE UNIVERSITY:**

By: \_\_\_\_\_ (SEAL)  
Title: Deron Geouque, County Manager

By:  (SEAL)  
Title: Sheri N. Everts, Chancellor

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

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

**Office of General Counsel**  
Reviewed/approved as to form.  
Initials: 

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

\_\_\_\_\_  
Margaret Pierce, Watauga County Finance Officer

**AGENDA ITEM 6:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*B. July Meeting Schedule Discussion*

**MANAGER'S COMMENTS:**

Historically, the Board cancels the first meeting in July due to the adoption of the annual budget and the beginning of a new fiscal year.

Staff would recommend the Board cancel the July 5, 2016, meeting leaving the next regularly scheduled meeting to be Tuesday, July 19, 2016, at 5:30 PM.

Board direction is requested.

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**AGENDA ITEM 6:****MISCELLANEOUS ADMINISTRATIVE MATTERS***C. Boards and Commissions***MANAGER'S COMMENTS:***Watauga County Board of Adjustment*

Janet Beck has resigned from the Board of Adjustment. Her 3-year term was set to expire in November. She is an at-large appointee. The Commissioners have the option of appointing someone to finish the term or to make a new 3-year appointment that would expire in November, 2019.

*Economic Development Commission*

There are two vacancies on the Economic Development Commission. One vacancy is an unfulfilled term expiring June, 2017, and the other is an unfulfilled term expiring June, 2018. Those seats were occupied by individuals who have moved from Watauga County. The EDC has fourteen members; nine are appointees, the other five serve by virtue of their organizations, including one Commissioner. All members vote.

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**AGENDA ITEM 6:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*D. Announcements*

**MANAGER'S COMMENTS:**



**AGENDA ITEM 7:**

**PUBLIC COMMENT**

**AGENDA ITEM 8:**

**BREAK**

**AGENDA ITEM 9:**

**CLOSED SESSION**

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