

CUMBERLAND COUNTY FACILITIES COMMITTEE  
JUDGE E. MAURICE BRASWELL CUMBERLAND COUNTY COURTHOUSE  
117 DICK STREET, 5TH FLOOR, ROOM 564  
MAY 3, 2018  
REGULAR MEETING MINUTES

MEMBERS PRESENT: Commissioner Glenn Adams  
Commissioner Michael Boose  
Commissioner Jeannette Council

OTHERS PRESENT: Amy Cannon, County Manager  
Tracy Jackson, Assistant County Manager  
Sally Shutt, Assistant County Manager  
Melissa Cardinali, Assistant County Manager  
Duane Holder, Assistant County Manager  
Rick Moorefield, County Attorney  
Jeffery Brown, County Engineer  
Vicki Evans, Finance Director  
Deborah Shaw, Budget Analyst  
Heather Harris, Budget Analyst  
Devon Newton, Paralegal  
Sarah Hallock, Communicare  
Jon Soles, Public Information Specialist  
Candice White, Clerk to the Board  
Kellie Beam, Deputy Clerk to the Board  
Press

Commissioner Glenn Adams called the meeting to order.

1. APPROVAL OF MINUTES – MARCH 1, 2018 REGULAR MEETING

MOTION: Commissioner Council moved to approve the March 1, 2018 meeting minutes as presented.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (3-0)

2. CONSIDERATION OF REQUEST FROM PIEDMONT NATURAL GAS TO PURCHASE PERMANENT EASEMENTS ON COUNTY PROPERTY

BACKGROUND:

Cumberland County Library Staff and Engineering & Infrastructure Staff (E&I) were contacted by Piedmont Natural Gas (PNG) in reference to an upcoming upgrade/upfit of their natural gas lines along Maiden Lane, Ray Avenue and Blue Street.

Staff met on-site at the Headquarters Library to discuss the installation along Maiden Lane and Ray Avenue. PNG proposes three bore pits that measure: Bore Pit 1 – approximately 5 feet by 20 feet, Bore Pit 2 – approximately 5 feet by 10 feet and Bore Pit 3 – approximately 5 feet by 20 feet. The gas line is approximately 2 inches and the depth of installation is 4 feet.

PNG has identified numerous utility conflicts that exist within the right-of-way including water, fiber, electrical, storm water lines and their existing gas line. The entire area of the south side of the property is hardscaped and landscaped. Currently their gas line is under the existing traffic circle and fountain at the intersection of Maiden Lane and Ray Avenue, making it inaccessible to service or repair. There is also a railroad right-of-way that they would like to avoid by installation of the line in the areas noted.

PNG has proposed purchasing a permanent easement at the Headquarters Library for a total of \$9,609, a temporary construction easement for \$2,395 and \$870 for the compensation of landscaping that would be impacted by the construction. The proposed total compensation to the County would be \$12,874. The temporary easement will impact approximately ten (10) parking spaces within the parking lot only during construction. The construction is anticipated to last two weeks.

For the property located off Blue Street, PNG has proposed purchasing a permanent easement for \$6,342 and a temporary construction easement for \$500 for a total compensation of \$6,842. ServiceSource, the property lessee, has been notified of the proposed work.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Facilities Committee approve the purchase of the permanent and temporary easements at the Headquarters Library and the property located off of Blue Street by Piedmont Natural Gas and forward it to the Board of Commissioners for its approval at their May 21, 2018 meeting as a Consent Agenda item.



GRANT OF EASEMENT  
DISTRIBUTION

Return Recorded Document to:  
OR COLAN, ASSOCIATES, LLC  
ATTN: TIMOTHY CHASTAIN  
160 N. First Street, South Bldg., Suites 2 & 5  
Albemarle, NC 28001

STATE OF NORTH CAROLINA

PROJECT NO.: 2351500

COUNTY OF CUMBERLAND

ADDRESS: 117 Dick St.

CITY: Fayetteville

STATE, ZIP: NC, 28301

PIN: 0437-55-6114

THIS GRANT OF EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, from Cumberland County, (hereinafter designated as "GRANTOR"), to PIEDMONT NATURAL GAS COMPANY, INC., 4720 PIEDMONT ROW DR, CHARLOTTE, NORTH CAROLINA 28210, (hereinafter designated as "GRANTEE").

WITNESSETH

That GRANTOR, for and in consideration of the sum of Nine Thousand Six Hundred Nine Dollars (\$9,609.00), and other valuable consideration, the receipt of which is hereby acknowledged, hereby expressly bargains, sells, and grants unto GRANTEE, its successors and assigns, a perpetual right of way and easement for the purpose of laying, constructing, maintaining, operating, inspecting, repairing, altering, adding to, replacing, removing, and protecting pipelines for the transportation of natural gas under, upon, over, through, and across the land of GRANTOR (or in which GRANTOR has interest) situated in the Cross Creek Township, Cumberland County, North Carolina, as described in deed(s) recorded in Book 2981, Page 0110, Office of the Register of Deeds for Cumberland County, North Carolina ("Property").

The right of way herein granted is (5) feet wide, extending two and one half (2½) feet on each side of the centerline of the pipeline, the location of which has been mutually agreed upon between GRANTOR and GRANTEE. The pipeline as actually installed shall determine the centerline of said right of way.

GRANTEE shall have the free and full right of ingress and egress over and across the aforesaid Property and to keep said right of way cleared of trees, shrubs, buildings, structures, and other obstructions. GRANTOR shall not construct, nor permit to be constructed, any house, structure, or other obstruction on or over said right of way.

GRANTOR hereby binds GRANTOR and GRANTOR'S heirs, representatives, successors, and assigns to warrant and forever defend all and singular said premises unto GRANTEE, its successors and assigns, against the claims of all persons whomsoever.

To have and to hold said right of way and easement unto GRANTEE, its successors and assigns, perpetually and continuously. GRANTOR expressly gives GRANTEE, its successors and assigns, the right to assign, license, lease, or otherwise transfer, in whole or part, this GRANT OF EASEMENT or any rights given herein, to any person or entity, including but not limited to, any affiliated parent or subsidiary entity of GRANTEE, for the uses and purposes expressly stated herein.

IN WITNESS WHEREOF, this GRANT OF EASEMENT has been signed and sealed by a duly authorized officer of GRANTOR, as of the date first above written.



GRANT OF TEMPORARY EASEMENT

Return to:  
OR COLAN, ASSOCIATES, LLC  
ATTN: TIMOTHY CHASTAIN  
160 N. First Street, South Bldg., Suites 2 & 5  
Albemarle, NC 28001

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND  
PARCEL NO. 0437-55-6114

PNG PROJECT: 2351500  
PNG TRACT NUMBER: RA-CUMB-003

THIS GRANT OF TEMPORARY EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, from CUMBERLAND COUNTY, (hereinafter designated as GRANTOR), to PIEDMONT NATURAL GAS COMPANY, INC., (hereinafter designated as GRANTEE).

WITNESSETH

That GRANTOR, for and in consideration of the sum of \$ 1,995.00 and other valuable considerations, the receipt of which is hereby acknowledged, hereby bargains, sells, and conveys unto GRANTEE, its successors and assigns, a temporary right of way and easement on and over the land of GRANTOR (or in which GRANTOR has interest) situated in CROSS CREEK Township, CUMBERLAND County, NORTH CAROLINA, as described in deed(s) recorded in Book 2981, Page 0110, CUMBERLAND County Registry, for the purpose of constructing and/or installing a pipeline facility, including but not limited to laying, storing, erecting, or parking equipment, materials, fill, components, parts, and tools necessary for constructing and/or installing a pipeline facility on the adjacent property.

The temporary right of way and easement herein granted encompasses .082 acres, more or less, as shown on the attached exhibit.

GRANTEE shall have all rights necessary or convenient for the full use and enjoyment of the rights herein granted, including without limitation: (1) free and full right of access to and from said right of way over and across the aforesaid land; (2) to keep said right of way cleared of trees, buildings, and other obstructions; and (3) to store equipment, material, and fill.

GRANTOR reserves the right to use the land over which said right of way and easement rights are hereby granted for all purposes not inconsistent with said easement rights, the NORTH CAROLINA Utilities Commission, GRANTEE's current encroachment specifications, or any federal, state, or local law, rule, or regulation. GRANTEE agrees that it shall be responsible for actual damages to improvements that existed prior to this EASEMENT and annual crops of GRANTOR both inside and outside said right of way on the above-referenced land caused by the exercise of the rights granted herein and in going to and from said right of way, and shall be responsible for the breakage caused to any bridge and any extraordinary damage to any road due to heavy hauling to and from said right of way, if claim is made within sixty (60) days after such damages are sustained.

To have and to hold said temporary right of way and easement rights unto GRANTEE, its affiliates, successors, and assigns, until construction of said pipeline is completed. GRANTOR expressly give(s) GRANTEE, its successors and assigns, the right to assign, license, lease, or otherwise transfer, in whole or part, this GRANT OF TEMPORARY EASEMENT or any rights given herein, to any person or entity, including but not limited to, any affiliated parent or subsidiary entity of GRANTEE, for the uses and purposes expressly stated herein.

GRANTOR hereby bind(s) GRANTOR and GRANTOR's heirs, representatives, and assigns to warrant and forever defend all and singular said premises unto GRANTEE, its successors and assigns, against the claims of all persons whomsoever.

IN WITNESS WHEREOF, this GRANT OF TEMPORARY EASEMENT has been signed and sealed by GRANTOR, as of the date first above written.

\*\*\*\*\*

GRANT OF TEMPORARY EASEMENT

Return to:

OR COLAN, ASSOCIATES, LLC  
ATTN: TIMOTHY CHASTAIN  
160 N. First Street, South Bldg., Suites 2 & 5  
Albemarle, NC 28001

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND  
PARCEL NO. 0437-19-3088

PNG PROJECT: 2351526  
PNG TRACT NUMBER: BL-CUMB-003

THIS GRANT OF TEMPORARY EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, from COUNTY OF CUMBERLAND, (hereinafter designated as GRANTOR), to Piedmont Natural Gas Company, Inc., (hereinafter designated as GRANTEE).

WITNESSETH

That GRANTOR, for and in consideration of the sum of \$ 500.00 and other valuable considerations, the receipt of which is hereby acknowledged, hereby bargains, sells, and conveys unto GRANTEE, its successors and assigns, a temporary right of way and easement on and over the land of GRANTOR (or in which GRANTOR has interest) situated in CROSS CREEK Township, CUMBERLAND County, NORTH CAROLINA, as described in deed(s) recorded in Book 6289, Page 431, CUMBERLAND County Registry, for the purpose of constructing and/or installing a pipeline facility, including but not limited to laying, storing, erecting, or parking equipment, materials, fill, components, parts, and tools necessary for constructing and/or installing a pipeline facility on the adjacent property.

The temporary right of way and easement herein granted encompasses .0046 acres, more or less, as shown on the attached exhibit.

GRANTEE shall have all rights necessary or convenient for the full use and enjoyment of the rights herein granted, including without limitation: (1) free and full right of access to and from said right of way over and across the aforesaid land; (2) to keep said right of way cleared of trees, buildings, and other obstructions; and (3) to store equipment, material, and fill.

GRANTOR reserves the right to use the land over which said right of way and easement rights are hereby granted for all purposes not inconsistent with said easement rights, the NORTH CAROLINA Utilities Commission, GRANTEE's current encroachment specifications, or any federal, state, or local law, rule, or regulation. GRANTEE agrees that it shall be responsible for actual damages to improvements that existed prior to this EASEMENT and annual crops of GRANTOR both inside and outside said right of way on the above-referenced land caused by the exercise of the rights granted herein and in going to and from said right of way, and shall be responsible for the breakage caused to any bridge and any extraordinary damage to any road due to heavy hauling to and from said right of way, if claim is made within sixty (60) days after such damages are sustained.

To have and to hold said temporary right of way and easement rights unto GRANTEE, its affiliates, successors, and assigns, until construction of said pipeline is completed. GRANTOR expressly give(s) GRANTEE, its successors and assigns, the right to assign, license, lease, or otherwise transfer, in whole or part, this GRANT OF TEMPORARY EASEMENT or any rights given herein, to any person or entity, including but not limited to, any affiliated parent or subsidiary entity of GRANTEE, for the uses and purposes expressly stated herein.

GRANTOR hereby bind(s) GRANTOR and GRANTOR's heirs, representatives, and assigns to warrant and forever defend all and singular said premises unto GRANTEE, its successors and assigns, against the claims of all persons whomsoever.

IN WITNESS WHEREOF, this GRANT OF TEMPORARY EASEMENT has been signed and sealed by GRANTOR, as of the date first above written.



GRANT OF EASEMENT  
DISTRIBUTION

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OR COLAN, ASSOCIATES, LLC  
ATTN: TIMOTHY CHASTAIN  
160 N. First Street, South Bldg., Suites 2 & 5  
Albemarle, NC 28001

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

PROJECT NO.: 2351526  
ADDRESS: P.O. Box 449  
CITY: Fayetteville  
STATE, ZIP: NC, 28302  
PIN: 0437-19-3088

THIS GRANT OF EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, from County of Cumberland, (hereinafter designated as "GRANTOR"), to PIEDMONT NATURAL GAS COMPANY, INC., 4720 PIEDMONT ROW DR, CHARLOTTE, NORTH CAROLINA 28210, (hereinafter designated as "GRANTEE").

WITNESSETH

That GRANTOR, for and in consideration of the sum of Six Thousand Three Hundred Forty Two Dollars (\$ 6,342.00), and other valuable consideration, the receipt of which is hereby acknowledged, hereby expressly bargains, sells, and grants unto GRANTEE, its successors and assigns, a perpetual right of way and easement for the purpose of laying, constructing, maintaining, operating, inspecting, repairing, altering, adding to, replacing, removing, and protecting pipelines for the transportation of natural gas under, upon, over, through, and across the land of GRANTOR (or in which GRANTOR has interest) situated in the Cross Creek Township, Cumberland County, North Carolina, as described in deed(s) recorded in Book 6389, Page 431, Office of the Register of Deeds for Cumberland County, North Carolina ("Property").

The right of way herein granted is (5) feet wide, extending two and one half (2½) feet on each side of the centerline of the pipeline, the location of which has been mutually agreed upon between GRANTOR and GRANTEE. The pipeline as actually installed shall determine the centerline of said right of way.

GRANTEE shall have the free and full right of ingress and egress over and across the aforesaid Property and to keep said right of way cleared of trees, shrubs, buildings, structures, and other obstructions. GRANTOR shall not construct, nor permit to be constructed, any house, structure, or other obstruction on or over said right of way.

GRANTOR hereby binds GRANTOR and GRANTOR'S heirs, representatives, successors, and assigns to warrant and forever defend all and singular said premises unto GRANTEE, its successors and assigns, against the claims of all persons whomsoever.

To have and to hold said right of way and easement unto GRANTEE, its successors and assigns, perpetually and continuously. GRANTOR expressly gives GRANTEE, its successors and assigns, the right to assign, license, lease, or otherwise transfer, in whole or part, this GRANT OF

EASEMENT or any rights given herein, to any person or entity, including but not limited to, any affiliated parent or subsidiary entity of GRANTEE, for the uses and purposes expressly stated herein.

IN WITNESS WHEREOF, this GRANT OF EASEMENT has been signed and sealed by a duly authorized officer of GRANTOR, as of the date first above written.

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**PIEDMONT NATURAL GAS COMPANY, INC. ("PNG")  
FAYETTEVILLE PROJECT  
Total Compensation Agreement for Permanent Easement,  
Temporary Work Space and Damages ("Agreement")**

**RE: PNG Tract Number: RA-CUMB-003 CUMBERLAND  
County**

**Landowner Name:** Cumberland County

**Address:** 117 Dick St.

Fayetteville, NC 28301

In consideration of the right(s) of way and/or easement(s) dated \_\_\_\_\_, 20\_\_ (collectively, "Easement") granted by Landowner to PNG, PNG agrees to pay to Landowner the following amounts:

- 1. Permanent Easement: \$9,609.00
- 2. Temporary Work Space: including 10 parking spots @\$40 \$2,395.00
- 3. Access Easement: \$
- 4. Damages: (List type, i.e. timber, crops, landscaping, etc.) \$

**Compensation for :**

<b>1 Japanese Maple \$500.00</b>	<b><u>\$ 500.00</u></b>
<b>1 Dogwood \$125.00</b>	<b><u>\$ 125.00</u></b>
<b>7 Bushes @ \$35 \$245.00</b>	<b><u>\$ 245.00</u></b>

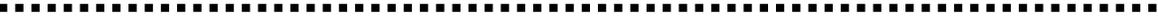
**Total Damage Cost:** **\$870.00**

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Landowner agrees that all terms, provisions and conditions of this Agreement and the Easement are and shall remain confidential and Landowner agrees not to disclose any such terms, provisions or conditions to any person or entity.

This Agreement shall be governed by North Carolina law.

<b>TOTAL COMPENSATION:</b>	<b><u>\$12,874.00</u></b>
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**PIEDMONT NATURAL GAS COMPANY, INC. (“PNG”)  
FAYETTEVILLE PROJECT  
Total Compensation Agreement for Permanent Easement,  
Temporary Work Space and Damages (“Agreement”)**

**RE: PNG Tract Number:** BL-CUMB-003 CUMBERLAND  
County

**Landowner Name:** County of Cumberland

**Address:** P.O. Box 449  
Fayetteville, NC 28302

In consideration of the right(s) of way and/or easement(s) dated \_\_\_\_\_, 20\_\_ (collectively, “Easement”) granted by Landowner to PNG, PNG agrees to pay to Landowner the following amounts:

- |                                |  |                    |
|--------------------------------|--|--------------------|
| 1.                             | Permanent Easement:<br><input style="width: 50px; height: 15px;" type="text"/>   | <b>\$ 6,342.00</b> |
| 2.                             | Temporary Work Space:<br><input style="width: 50px; height: 15px;" type="text"/>                                       | <b>\$ 500.00</b>   |
| 3.                             | Access Easement:<br><input style="width: 50px; height: 15px;" type="text"/>  | <b>\$</b>          |
| 4.                             | Damages: (List type, i.e. timber, crops, landscaping, etc.)<br><input style="width: 50px; height: 15px;" type="text"/> | <b>\$</b>          |
| <b>Compensation for _____:</b> |  | <b>\$ _____</b>    |

**Total Damage Cost:** **\$**

**Landowner agrees that all terms, provisions and conditions of this Agreement and the Easement are and shall remain confidential and Landowner agrees not to disclose any such terms, provisions or conditions to any person or entity.**

**This Agreement shall be governed by North Carolina law.**

<b>TOTAL COMPENSATION:</b>	<b><u>\$ 6,842.00</u></b>
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Jeffery Brown, Engineering & Infrastructure Director, reviewed the background information, recommendation and supporting documents as recorded above.

Mr. Brown stated PNG has proposed purchasing a permanent easement at the Headquarters Library for a total of \$9,609, a temporary construction easement for \$2,395 and \$870 for the compensation of landscaping that would be impacted by the construction. Commissioner Adams stated he believes that instead of asking for \$870 for the compensation of landscaping that would be impacted by the construction the County should require the area be put back in the condition it was in when the project starts. Commissioner Council and Commissioner Boose both agreed with Commissioner Adams.

Mr. Brown stated for the property located off Blue Street, PNG has proposed purchasing a permanent easement for \$6,342 and a temporary construction easement for \$500 for a total compensation of \$6,842. Commissioner Adams stated he would like the same provision for this project regarding PNG returning the landscaping in this area to the original condition as stated above.

**MOTION:** Commissioner Boose moved to recommend to the full board approval of the purchase of the permanent and temporary easements at the Headquarters Library and the property located off of Blue Street by Piedmont Natural Gas with the provision added that the landscaping of both area's must be returned to the original condition by Piedmont Natural Gas and forward to the Board of Commissioners for its approval at the May 21, 2018 meeting as a consent agenda item.

**SECOND:** Commissioner Council

**VOTE:** UNANIMOUS (3-0)

**3. CONSIDERATION OF PWC AGREEMENT TO UTILIZE PERSON STREET PARKING LOT AS A CONSTRUCTION STORAGE SITE**

**BACKGROUND:**

Engineering & Infrastructure (E&I) Staff was contacted by Fayetteville Public Works Commission regarding utilizing the Person Street Parking Lot as a construction storage site for an upcoming project. Fayetteville Public Works Commission will be performing work

through a contractor on replacing portions of their infrastructure in the vicinity of the Market House.

The agreement was drafted to allow PWC to utilize the vacant Person Street Parking Lot. It permits access to the entire parcel for storage of construction equipment and materials for up to nine months at no cost. It requires for the parcel to be restored to the County in equal or better condition at the conclusion of this temporary usage along with other conditions during the time period in which the parcel is being utilized. This agreement is being executed with PWC as the proposed contractor does not have a contractual obligation with the County.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Facilities Committee consider approval of the agreement with the Fayetteville Public Works Commission and forward it to the Board of Commissioners for its consideration at their May 21, 2018 meeting as a Consent Agenda item.

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North Carolina  
Cumberland County

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between Cumberland County (“County”) and the Fayetteville Public Works Commission (“PWC”) (each of PWC and County is a “Party” and both are collectively the “Parties”).

Whereas, County owns the parcel with PIN 0437-83-0210, containing a gravel parking lot located at 334 Person Street, Fayetteville (“the Parcel”); and

Whereas, PWC desires to use the Parcel as a temporary construction laydown site for its contractors for the purpose of storing construction equipment and materials.

In order to accommodate the PWC’s need for the temporary use of the Parcel for this purpose, the Parties agree as follows:

1. County agrees to allow PWC’s contractors, through PWC, to utilize the entire parcel for a construction laydown area for the storage of construction equipment and materials for a period of up to nine months, commencing upon execution of this Agreement by County, and at no cost.
2. PWC will ensure that the Parcel is returned to County in at least an equal or a better condition at the conclusion of this temporary use for this purpose.
3. PWC will ensure that the Parcel is kept free of trash and debris on a daily basis.

4. PWC will ensure that effective erosion control measures are installed and maintained to prevent sediment from washing into the street or tracking sediment from the Parcel onto the street. PWC shall be responsible for any failure of the erosion control measures.

5. PWC will ensure that temporary fence is installed around the perimeter of the area to be utilized.

6. PWC will ensure that no hazardous materials, including fuels and lubricants, are stored on the Parcel except under such conditions and in such containment devices as are necessary to prevent leakage or spillage of such hazardous materials onto the soil. PWC shall ensure that any leakage or spillage of such hazardous materials onto the soil as may occur shall be immediately remediated to minimize the risk of contamination to the Parcel.

7. PWC shall indemnify and hold the County harmless from any claims made against the County for any purpose or occasioned by any injury or damages suffered by anyone which arise out of the temporary use of the Parcel as a construction laydown site by PWC or its contractors.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

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Jeffery Brown, Engineering and Infrastructure Director, reviewed the background information, recommendation and lease agreement as recorded above.

Commissioner Adams stated he believes this would be an inconvenience to the businesses around this parcel. Commissioner Adams stated he believes the parcel behind Beasley Broadcasting would make more sense for a construction storage site. Commissioner Boose stated he does not believe the Person Street Parking Lot would be a prime spot for a construction storage site.

MOTION: Commissioner Council moved to deny the request from PWC to utilize the Person Street Parking Lot as a construction storage site.

SECOND: Commissioner Boose

VOTE: UNANIMOUS (3-0)

#### 4. CONSIDERATION OF RENEWAL OF LEASE AGREEMENTS

##### A. EASTER SEALS UCP OF NORTH CAROLINA AND VIRGINIA Inc.

##### BACKGROUND:

Easter Seals UCP of North Carolina and Virginia, Inc. provides support and services for children with intellectual developmental disabilities at the Dorothy Spainhour Center where specially trained teachers and therapists work with local clients and families. The

lease agreement for this 12,310 square foot facility will expire June 30, 2018 and Easter Seals wishes to renew the lease for the same terms which primarily are as follows:

- 3-year term
- \$1rent/year
- No security deposit required
- Lessee solely responsible for all utility costs
- Lessee solely responsible for all maintenance

RECOMMENDATION/PROPOSED ACTION:

This item was scheduled to go to the April Facilities Committee Meeting, but that meeting was cancelled. Staff requests this be sent to the Board at its May 7, 2018 regular meeting instead of the May 21, 2018 regular meeting due to the 30-day advertising requirement and the pending expiration of the lease on June 30, 2018. Staff recommends forwarding the lease renewal to the full Board of Commissioners at the May 7, 2018 regular meeting as a consent agenda item for 1) the initial resolution of intent to lease certain real property and 2) required 30-day advertising as per NCGS 160A-272.

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Tracy Jackson, Assistant County Manager, reviewed the background information and recommendation as recorded above. Mr. Jackson stated Easter Seals is looking for a lease renewal with no changes to the current lease.

Commissioner Council stated she is familiar with the work Easter Seals UCP does in this community and it is very valuable to Cumberland County.

**MOTION:** Commissioner Council moved to recommend to the full board approval of the Easter Seals UCP lease renewal for another three years but work towards researching the possibility of Easter Seals UCP purchasing the property at some point in the future and to forward this item to the full board at the May 7, 2018 regular meeting as a consent agenda item for 1) the initial resolution of intent to lease certain real property and 2) required 30-day advertising as per NCGS 160A-272.

**SECOND:** Commissioner Adams

**DISCUSSION:**

Commissioner Boose stated he has no problem with the work Easter Seals UCP does in the community but from a business standpoint he believes the County should have the property valued and sell it to Easter Seals UCP. Commissioner Adams stated he would like to see the County extend the lease this time and have staff work with Easter Seals UCP at some point to see if the purchase of the property could be feasible at some point. Commissioner Adams stated he saw where the County did a walk through of the facility and he does not believe the County should only give organization's thirty days to get problems fixed because it is not enough time. Commissioner Adams further stated he would like the County to review that practice to give others more time than thirty days to get things

fixed. Commissioner Boose and Commissioner Council agreed with Commissioner Adams on giving more time than thirty days for repairs to be done.

VOTE: UNANIMOUS (3-0)

**B. CUMBERLAND COUNTY COMMUNICARE**

**BACKGROUND:**

Cumberland County Communicare, Inc., a local not-for-profit agency that assists people in overcoming mental health problems, substance abuse/chemical dependency and the trauma of sexual victimization and abuse, wishes to enter into a lease agreement with Cumberland County for 13,994 square feet of office space located at 109 Bradford Avenue in Fayetteville. This agreement contains terms that mirror the prior agreement between Communicare and Cumberland County and will take the place of that agreement which will expire June 30, 2018. The agreement also continues to recognize the in-kind services that Communicare provides to the County. The rent is proposed at an annual rate of \$41,308 and will be for a three-year term.

**RECOMMENDATION/PROPOSED ACTION:**

This item was scheduled to go to the April Facilities Committee Meeting, but that meeting was cancelled. Staff requests this be sent to the Board at its May 7, 2018 regular meeting instead of the May 21, 2018 regular meeting due to the 30-day advertising requirement and the pending expiration of the lease on June 30, 2018. Staff recommends forwarding the lease renewal to the full Board of Commissioners at the May 7, 2018 regular meeting as a consent agenda item for 1) the initial resolution of intent to lease certain real property and 2) required 30-day advertising as per NCGS 160A-272.

**STATE OF NORTH CAROLINA**

**COUNTY OF CUMBERLAND**

**LEASE AGREEMENT**

**Notice of Intent published in the *Fayetteville Observer* on  
Approved by the Board of Commissioners on**

This Lease Agreement made and entered as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between **Cumberland County Communicare, Inc.**, a non-profit North Carolina corporation with a place of business at 109 Bradford Avenue, Fayetteville, North Carolina, hereinafter referred to as "LESSEE", and the **County of Cumberland**, a body politic and corporate of the State of North Carolina, hereinafter referred to as "LESSOR".

**WITNESSETH:**

THAT for and in consideration of the mutual promises hereinafter contained herein and subject to the terms and conditions hereinafter set forth or referred to, LESSOR does hereby lease and demise to LESSEE that certain space consisting of 13,994 square feet of office space located at 109 Bradford Avenue, Fayetteville, NC, and being the same space already occupied by Lessee.

TO HAVE AND TO HOLD said property, together with all privileges and appurtenances thereto belonging including easements of ingress and egress, to the said LESSEE, under the terms and conditions hereinafter set forth:

1. **TERM**: The Lease shall commence the 2<sup>nd</sup> day of November 2015, and unless sooner terminated, continue for three (3) years to June 30, 2018.
2. **RENT**: The rent shall be at an annual rate of FORTY-ONE THOUSAND THREE HUNDRED EIGHT DOLLARS (\$41,308). The rent shall be payable in quarterly installments beginning on July 1st each year.
3. **DEPOSIT**: LESSOR shall not require a security deposit from the LESSEE.
4. **SERVICES**: LESSOR covenants and agrees to furnish the leased premises with electrical service suitable for the intended use as general office space (including dedicated ground circuits for computer operation), including fluorescent tube and ballast replacements, heating and air conditioning for the comfortable use and occupancy of the leased premises, plus supplying and maintaining building common areas and restroom facilities, including hot and cold water, and sewage disposal in the building in which the leased premises are located. If the premises have a security system, Lessor will maintain it in good working order.
5. **PARKING LOT**: LESSEE shall have the right of shared use and enjoyment of the building's parking areas at no charge to the LESSEE.
6. **ASSIGNMENT OR SUB-LEASE**: The LESSEE shall not assign this lease or sublet the leased premises or any part thereof, without the written consent of the LESSOR. Such written consent will not be unreasonably withheld by LESSOR.
7. **USE AND POSSESSION**: It is understood that the leased premises are to be used for general office purposes and for no other purposes without prior written consent of LESSOR. LESSEE shall not use the leased premises for any unlawful purpose or so as to constitute a nuisance. LESSEE shall return the premises to LESSOR at the termination hereof in as good condition and state of repair as the same was at the commencement of the term hereof, except for loss, damage, or depreciation occasioned by reasonable wear and tear and damage by accidental fire or other casualty.
8. **DESTRUCTION OF PREMISES**: In the event that said building is damaged by fire, windstorm, or an act of God, so as to materially affect the use of the building

and premises, this Lease shall automatically terminate as of the date of such damage or destruction, provided, however, that if such building and premises are repaired so as to be available for occupancy and use within sixty (60) days after said damage, then this lease shall not terminate, provided further that the LESSEE shall pay no rent during the period of time that the premises are unfit for occupancy and use.

9. **CONDEMNATION**: If during the term of this lease or any renewal period thereof, the whole of the leased premises, or such portion thereof as will make the leased premises unusable for the purpose leased, be condemned by public authority for public use, then in either event, the term hereby granted shall cease and come to an end as of the date of the vesting of title in such public authority, or when possession is given to such public authority, whichever event occurs last. Upon such occurrence the rent shall be apportioned as of such date and any rent paid in advance at the due date for any space condemned shall be returned to the LESSEE. The LESSOR shall be entitled to reasonable compensation for such taking except for any statutory claim of the LESSEE for injury, damage or destruction of the LESSEE'S business accomplished by such taking. If a portion of the leased premises is taken or condemned by public authority for public use so as not to make the remaining portion of the leased premises unusable for the purposes leased, this lease will not be terminated but shall continue. In such case, the rent shall be equitably and fairly reduced or abated for the remainder of the term in proportion to the amount of leased premises taken. In no event shall the LESSOR be liable to the LESSEE for any interruption of business, diminution in use or for the value of any unexpired term of this lease.
10. **INTERRUPTION OF SERVICE**: LESSOR shall not be or become liable for damages to LESSEE alleged to be caused or occasioned by or in any way connected with or the result of any interruption in service, or defect or breakdown from any cause whatsoever in any of the electric, water, plumbing, heating, or air conditioning systems. However, upon receipt of actual notice of any such interruption, defect or breakdown, LESSOR will take such steps as are reasonable to restore any such interrupted service to remedy any such defect.
11. **LESSOR'S RIGHT TO INSPECT**: The LESSOR shall have the right, at reasonable times during the term of this lease, to enter the leased premises, for the purposes of examining and inspecting same and of making such repairs or alterations therein as the LESSOR shall deem necessary.
12. **INSURANCE**: LESSOR will be responsible for insuring its interest in the building and LESSEE will be responsible for insuring its personal property within the leased premises. LESSEE shall at all times during the term hereof, at its own expense, maintain and keep in force a policy or policies of general and premises liability insurance against claims for bodily injury, death or property damage occurring in, on, or about the demised premises in a coverage amount of no less than \$500,000 per occurrence and naming LESSOR as an additional named insured.

13. **MAINTENANCE OF STRUCTURE:** LESSOR shall be responsible for the maintenance and good condition of the roof and supporting walls of the building leased hereunder and for maintenance in good working condition of all mechanical equipment (including but not limited to heating and air conditioning equipment) installed and provided by the LESSOR. The LESSEE shall be responsible for the maintenance in good condition of interior surfaces, floors, doors, ceilings, and similar items except that the LESSEE shall not be responsible for fair wear and tear or for major damage or destruction of such walls, grounds, surfaces, or any structural component of the premises.
  
14. **HEATING AND AIR CONDITIONING; JANITORIAL SERVICES:** LESSOR shall provide and maintain heating and air conditioning in good working condition. Temporary stoppages of heating services for the purposes of maintaining or repairing heating equipment and facilities shall not constitute a default by LESSOR in performance of this Lease, provided that the LESSOR exercises due diligence and care to accomplish such maintenance and repair and such stoppages do not continue to an unreasonable length of time. LESSOR shall be responsible for commercially reasonable janitorial service and trash removal from leased premises.
  
15. **PERSONAL PROPERTY AND IMPROVEMENTS:** Any additions, fixtures, or improvements placed or made by the LESSEE in or upon the leased premises, which are permanently affixed to the leased premises and which cannot be removed without unreasonable damage to said premises shall become the property of the LESSOR and remain upon the premises as a part thereof upon the termination of this Lease. All other additions, fixtures, or improvements to include trade fixtures, office furniture and equipment, and similar items, which can be removed without irreparable damage to the leased premises, shall be and remain the property of the LESSEE and may be removed from the leased premises by the LESSEE upon the termination of this lease. LESSEE shall bear the expense of any repairs of the leased premises, other than fair wear and tear caused by such removal.
  
16. **TAXES:** LESSEE will list and pay all business personal property taxes, if any, on its personal property located within the demised premises.
  
17. **NOTICE:** Any notices to be given by either party to the other under the terms of this Agreement shall be in writing and shall be deemed to have been sufficiently given if delivered by hand, with written acknowledgement of receipt, or mailed by certified mail, return receipt requested, or delivered by receipt controlled express service, to the other party at the following addresses or to such other addresses as either party hereafter from time to time designates in writing to the other party for the receipt of notice:

**LESSEE:**  
Cumberland County, Communicare, Inc.  
Attn: Executive Director

**LESSOR:**  
Cumberland County  
Attn: County Manager

P.O. Box 87830  
Fayetteville, NC 28304-0030

P. O. Box 1829  
Fayetteville, NC 28302-1829

Such notice, if mailed, shall be deemed to have been received by the other party on the date contained in the receipt.

18. **ORDINANCES AND REGULATIONS:** The LESSEE hereby covenants and agrees to comply with all the rules and regulations of the Board of Fire Underwriters, officers and boards of the city, county or state having jurisdiction over the leased premises, and with all ordinances and regulations or governmental authorities wherein the leased premises are located, at the LESSEE'S sole cost and expense, but only insofar as any of such rules, ordinances, and regulations pertain to the manner in which the LESSEE shall use the leased premises, the obligation to comply in every other case, and also all cases where such rules, regulations, and ordinances require repairs, alterations, changes or additions to the building (including the leased premises) or building equipment, or any part of either, being hereby expressly assumed by the LESSOR and LESSOR covenants and agrees promptly and duly to comply with all such rules, regulations and ordinances with which LESSEE has not herein expressly agreed to comply.
  
19. **INDEMNIFICATION:** LESSEE will indemnify LESSOR and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury or damage to property occurring in or about, or arising out of, the demised premises, and occasioned wholly or in part by any act or omission of LESSEE, its agents, licensees, concessionaires, customers or employees. In the event LESSOR shall be made a party to any litigation, commenced by or against LESSEE, its agents, licensees, concessionaires, customers or employees, then LESSEE shall protect and hold LESSOR harmless and shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by LESSOR in connection with such litigation, unless such litigation arises out of an injury or injuries claimed as a result of some defective condition existing on the premises for which LESSOR has responsibility to maintain or repair under the terms of this lease and to which LESSOR has been put on notice by LESSEE.
  
20. **REPAIR:** The premises shall meet all requirements necessitated by the ADA and OSHA Inspection Guidelines. Should it be necessary during the term of this Lease to repair the roof structure; exterior walls; or structural members or the building because of defect or failure, the LESSOR shall make such repairs or replacements at its sole cost and expense, within a reasonable time after demand is made in writing to the LESSOR to do so by the LESSEE. The LESSOR shall keep the premises, including all improvements, in good condition and repair and in a good, clean, and safe condition at all times during the term of this Lease Agreement.
  
21. **WARRANTY:** The LESSOR warrants that all plumbing, electrical, heating, and air conditioning units and facilities are in good working order at the commencement of this Lease.

22. **REMEDIES:** If either party shall be in default with respect to any separate performance hereunder and shall have remained in default for ten (10) days after receipt of notice of default, there shall be a breach of this lease. The defaulting party shall remain fully liable for performing its remaining obligations under this lease. The defaulting party shall be liable for reasonable damages as provided by law and for all costs and expenses, including reasonable attorney's fees, incurred by the other party on account of such default, except as otherwise provided herein. Waiver by either party of any breach of the other's obligation shall not be deemed a waiver of any other or subsequent breach of the same obligation. No right or remedy of any party is exclusive of any other right or remedy provided or permitted by law or equity, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by state or otherwise any may be enforced concurrently or from time to time.
23. **SUCCESSOR AND ASSIGNS:** This lease shall bind and inure to the benefit of the successors, assigns, heirs, executors, administrators, and legal representatives of the parties hereto.
24. **ALTERATIONS AND PARTITIONS:** The LESSEE may make reasonable alterations and partitions to the interior of the premises to enhance their suitability for the uses contemplated in this Lease Agreement, provided prior written approval of the graphic plan for alterations and partitions shall be obtained from the LESSOR, who shall not unreasonably withhold such approval.
25. **UTILITIES:** Electrical power, water, and sewer services to serve the leased premises shall be at LESSOR'S expense. LESSOR shall not be liable for any failure of any public utility to provide utility services over such connections and such failure shall not constitute a default by LESSOR in performance of this Lease. LESSEE shall be prudent in its use of utilities and compliant with the LESSOR'S practices and policies related to utilities.
26. **RISKS OF LOSS:** As between the LESSOR and the LESSEE, any risk of loss of personal property placed by the LESSEE in or upon the leased premises shall be upon and a responsibility to the LESSEE, regardless of the cause of such loss.
27. **DESTRUCTION OF PREMISES:** If the leased premises should be completely destroyed or damaged so that more than fifty percent (50%) of the leased premises are rendered unusable, this Lease shall immediately terminate as of the date of such destruction or damage.
28. **TERMINATION:** If the LESSEE shall fail to pay any installment of rent when due and payable as heretofore provided or fail to perform any of the terms and conditions heretofore set forth and shall continue in such default for a period of fifteen (15) days after written notice of default, LESSOR, at its discretion, may terminate this Lease and take possession of the premises without prejudice to any other remedies allotted by law; and/or, if the LESSOR SHALL fail to perform any of the terms and

conditions heretofore set forth and shall continue in such default thirty (30) days after written notice of such default, the LESSEE, at its discretion shall terminate this Lease and vacate the leased premises without further obligation to pay rent as theretofore provided from date of said termination, without prejudice to any other remedies provided by law.

29. **OCCUPANCY AND QUIET ENJOYMENT:** LESSOR promises that LESSEE shall have quiet and peaceable possession and occupancy of the above leased premises in accordance with the terms set forth herein, and that LESSOR will defend and hold harmless the LESSEE against any and all claims or demands of others arising from LESSEE'S occupancy of the premises or in any manner interfering with the LESSEE'S use and enjoyment of said premises.
30. **MODIFICATION:** This Agreement may be modified only by an instrument duly executed by the parties or their respective successors.
31. **MERGER CLAUSE:** This instrument is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of its terms. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity to make objection. No representations, understandings or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

IN WITNESS WHEREOF, the LESSOR and LESSEE have caused this Lease Agreement to be executed in duplicate originals by their duly authorize officers, the date and year first above written.

LESSEE: CUMBERLAND COUNTY COMMUNICARE, INC

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Tracy Jackson, Assistant County Manager, reviewed the background information, recommendation and lease agreement as recorded above.

- MOTION: Commissioner Council moved to recommend to the full board approval of the Communicare lease agreement renewal and to forward the lease renewal to the full Board of Commissioners at the May 7, 2018 regular meeting as a consent agenda item for 1) the initial resolution of intent to lease certain real property and 2) required 30-day advertising as per NCGS 160A-272.
- SECOND: Commissioner Boose
- VOTE: UNANIMOUS (3-0)

5. CONSIDERATION OF REQUEST FOR MONOPOLE CELL TOWER LEASE SITE

BACKGROUND:

Cosite, LLC, has requested to lease a portion of the county-owned parcel lying between the DSS parking lot and the Martin Luther King, Jr., Freeway for a monopole cell tower 170' in height for Verizon. There is an existing Lamar billboard on another portion of the parcel. The billboard use is permitted by a licensing agreement that can be terminated on short notice. The proposed cell tower use is for a term that may extend up to 25 years at a lease rate of \$1,000 per month, increasing by 10% each five years. Notice of the intent to lease the property on these terms would have to be published before the transaction could be completed.

RECOMMENDATION/PROPOSED ACTION:

If the Committee determines it unlikely that the parcel will be used for any other purposes during the term of this lease, the county attorney recommends that the proposed lease be accepted.

\*\*\*\*\*

Rick Moorefield, County Attorney, reviewed the background information and recommendation as recorded above.

Commissioner Boose stated he does not believe this would be attractive or good for the neighbors. Commissioner Boose asked if having the cell tower would help communication access for other agencies. Mr. Moorefield stated he could look into the issue and bring it back to the committee.

MOTION: Commissioner Boose moved to take this item off this month's agenda for the county attorney to find out some additional information and bring back to the Facilities Committee sometime after the budget season.

SECOND: Commissioner Council

VOTE: UNANIMOUS (3-0)

6. OTHER ITEMS OF BUSINESS

There were no other items of business.

MEETING ADJOURNED AT 11:26 AM.