

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
FRIDAY, APRIL 4, 2014**

The Henderson County Board of Commissioners met for a special called joint meeting with the City Council of the City of Hendersonville at 10:00 a.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

Those present were: Chairman Charlie Messer, Vice-Chairman Tommy Thompson, Commissioner Grady Hawkins, Commissioner Mike Edney, Commissioner Larry Young, County Manager Steve Wyatt, Assistant County Manager Amy Brantley, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Others present were: Engineer Marcus Jones, Research Budget Analyst Megan Piner, Director of Business and County Development John Mitchell, Animal Services Director Brad Rayfield, Building Services Director Tom Stauffer, Code Enforcement Director Toby Linville, DSS Director Eric Bush, Elections Director Beverly Cunningham, Emergency Services Director Rocky Hyder, Human Resources Director Jan Prichard, IT Director Becky Snyder, Library Director William Snyder, Recreation Director Tim Hopkin, Soil & Water Conservation District Director Jonathan Wallin, Travel & Tourism Director Beth Carden, Finance Director J. Carey McLelland, Lieutenant Gloria Nock, Department of Health Administrative Assistant Cathy Nicholson, Central Services Manager David Berry, Assessor/Tax Collector Stan Duncan, Internal Auditor Darlene Burgess, Registrar of Deeds Nedra Moles, Sheriff McDonald, Nurse Practitioner James Gibbs, and PIO Christina Hallingse – videotaping.

CALL TO ORDER/WELCOME

Chairman Messer called the meeting to order and welcomed all in attendance. He announced this is a special called joint meeting with the City of Hendersonville for a sole agenda item called "Project Touchdown". The Board has reviewed all documents for the project. Chairman Messer called for a motion.

Commissioner Thompson made the motion that the Board enter into a Five Party Agreement with the City of Hendersonville, Wingate University, Blue Ridge Community College, and Henderson County Hospital Corporation, and that the Board authorize and direct the Chairman to execute the same on behalf of the Board. He further moved that the Board enter into the Inter-local Agreement with the City of Hendersonville, and that the Board authorize and direct the Chairman to execute the same on behalf of the Board. All voted in favor and the motion carried.

Others in attendance were:

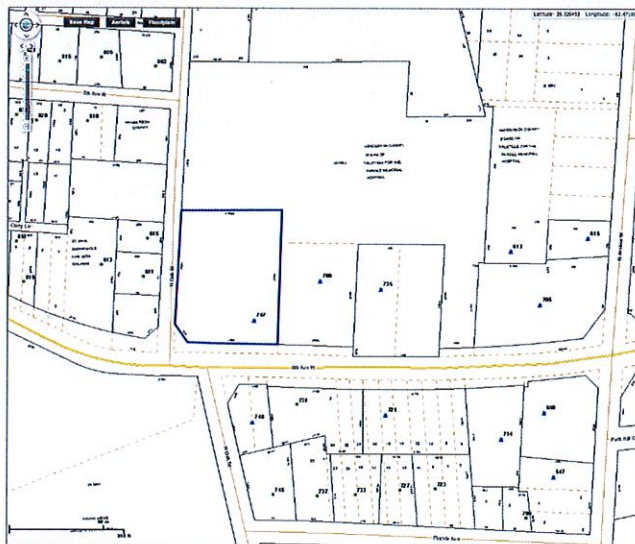
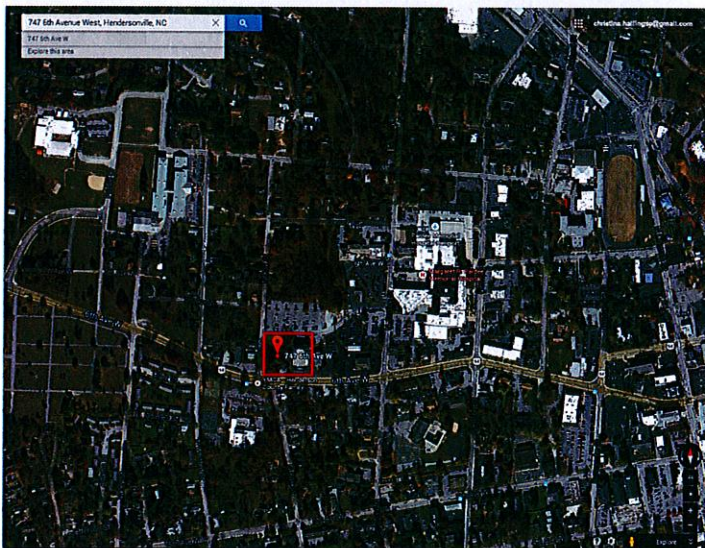
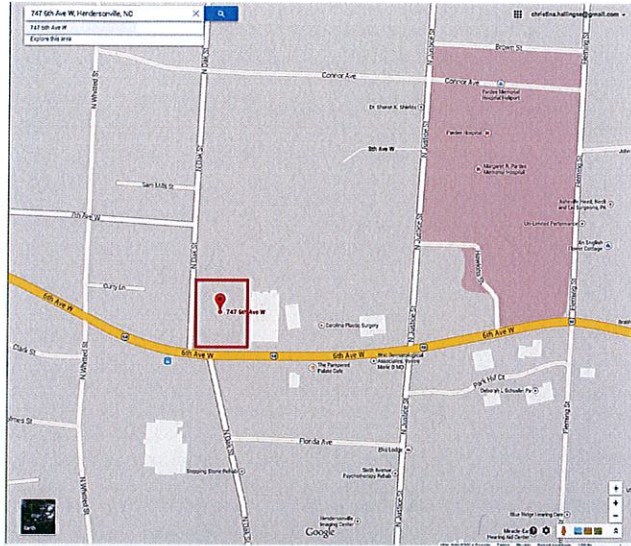
City of Hendersonville: Mayor Barbara Volk, Council member Jeff Miller, Mayor Pro Tem Ron Stephens, Council member Steve Caraker (via telephone), City Manager John Connet, Clerk Tammie Drake, and City Attorney Samuel H. Fritschner.

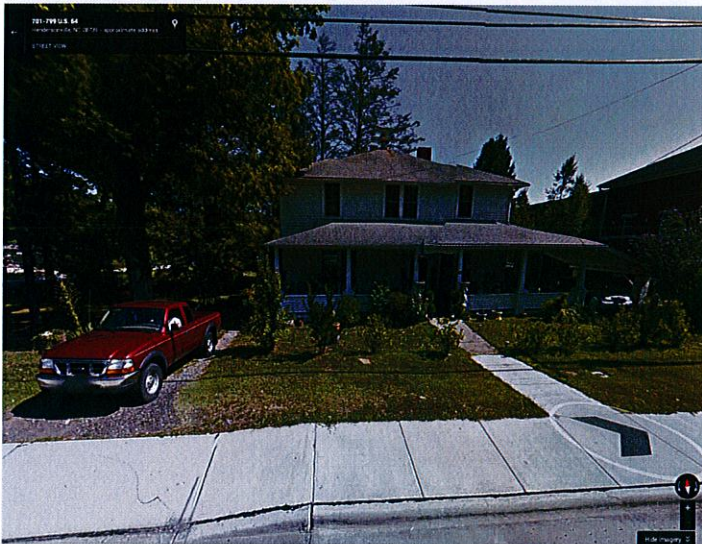
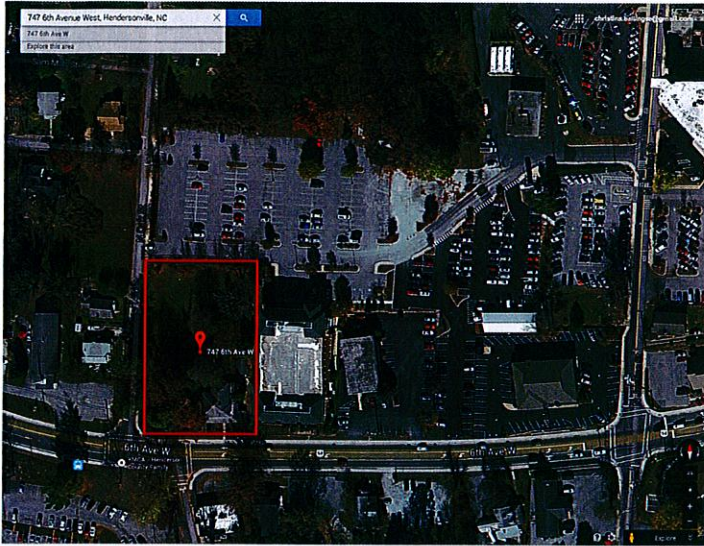
Blue Ridge Community College: President Dr. Molly Parkhill, Board of Trustees Chair John McCormick, Jr., Trustee Chip Gould, Trustee Andrew Tate.

Pardee Hospital/Henderson County Hospital Corporation: CEO Jay Kirby & Administrative Assistant Stacey Gasperson, Board of Directors Rita Conner, Peggy Judkins, Bill Moyer, Jack Summey, Hall Waddell, and Dr. William Medina. CFO & VP of Support Services for Pardee Hospital/UNC Healthcare Alan House, Director of Community Affairs and Outreach at Pardee Hospital Elizabeth Moss, President of UNCH Gary Park, and CMO Robert Kiskaddon, M.D.

Wingate College: President Dr. Jerry McGee.

DATE APPROVED: April 16, 2014





ADJOURN

Commissioner Hawkins made the motion to adjourn at 10:02 a.m. All voted in favor and the motion carried.

A press conference was held immediately following the meeting.

This being a joint meeting with the City of Hendersonville, their minutes will be completed by the City Clerk and stored with City records.

Attest:

Teresa L. Wilson, Clerk to the Board

Charles D. Messer, Chairman

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

INTER-LOCAL AGREEMENT

This Agreement is made by and between the City of Hendersonville, a North Carolina municipal corporation ("the City"), and the County of Henderson, a body corporate and politic of the State of North Carolina ("the County").

Statement of Circumstances Leading To The Agreement

A. The City is the holder of equitable title to a certain parcel of real property located within the City at 767 Sixth Avenue West, found at Henderson County parcel number 1009121, consisting of approximately 0.92 acres, more or less ("the Real Property"). The City is scheduled to close on a transaction granting it legal title to the Real Property by not later than 30 June 2014.

B. The parties desire that the Real Property be used in a mutually beneficial way to provide for a multi-institutional medical and educational facility, to be seen as a part of the main campus of the Margaret R. Pardee Memorial Hospital owned by Henderson County Hospital Corporation ("the Hospital").

C. The purposes for which the parties have entered into this Agreement are as follows:

(1) To provide physical plant and operation for the public community college located within the County (Blue Ridge Community College, hereafter "BRCC"), pursuant to N.C. Gen. Stat. §115D-32.

(2) To provide assistance to the Hospital, which is a public hospital, pursuant to N.C. Gen. Stat. §§ 153A-149 and 160A-209.

(3) To provide a facility for the economic development of the City by increasing the business prospects for the area. This will be accomplished by:

(a) Providing a facility for commercial use pursuant to N.C. Gen. Stat. §158-7.1(b)(4); and,

(b) Receiving a stable and long-term commitment from two educational facilities to locate within the City.

D. The parties agree that a cooperative solution can best lead to the accomplishment of these purposes.

Agreement

Taking into account the circumstances, above, the Mayor and Council of the City, and the Board of Commissioners of the County have individually found and collectively agreed that the following Inter-local Agreement, made pursuant to N.C. Gen. Stat. §160A-460 *et seq.*, is in the best interest of the City and the County respectively, and therefore agree as follows:

1. The City shall convey unencumbered clear and insurable title to the Real Property to COUNTY OF HENDERSON, a body corporate and politic of the State of North Carolina.

2. The City shall contract for and procure the demolition of all existing structures on the Real Property, and contract for and procure the preparation of the Real Property for construction of the sort as stated below. The City shall calculate and certify to the County the total costs of its acquisition of the Real Property, the demolition of the existing structures, and the preparation of the Real Property for construction ("City's certified costs").

3. The County shall execute a promissory note secured by a deed of trust encumbering the Real Property in favor of the City.

A. The terms of the promissory note are as follows: The County shall repay to the City one-half (½) of the City's certified costs, without interest, in four equal annual installments, with the first such installment beginning one year after the final payment date of the Construction Loan described below (if such Construction Loan is refinance, then the final payment date as originally calculated on the closing date of the Construction Loan). The deed shall contain a provision that upon any sale of the property by the County, the County shall pay to the City the difference between the City's certified costs and any amount already paid to the City hereunder, plus interest at the rate of one percent (1%) per year from the date hereof on such sum from the date of transfer of the Real Property from the City to the County to the date of such sale. To the extent that this provision might otherwise violate any applicable rule against perpetuities, this provision shall lapse on the day before such rule would operate to void such provision.

B. The deed of trust securing the promissory note in favor of the City shall be subordinate to the Construction Loan (and any loan to refinance the Construction Loan as stated below). The City will execute any and all documents reasonably required by any lender to insure that the Construction Loan (and any loan to refinance the Construction Loan as stated below) constitute first liens on the Real Property.

4. The County shall negotiate with Wingate University, Blue Ridge Community College, and Henderson County Hospital Corporation (collectively, "the Tenants"), to plan space in a new building ("the Building") that will be constructed on the Real Property.

5. The County will secure leases with the Tenants for their respective spaces in the Building. Under the terms of such leases, Wingate University and Henderson County Hospital Corporation shall pay market rent (as defined in the "Five Party Agreement" executed on this date) for the space leased by them, and Blue Ridge Community College shall pay no rent for the space leased by it.

6. The County will secure a loan ("the Construction Loan"), to be secured by pledge of the Real Property, of sufficient amount to fully pay the costs of planning, designing and constructing on the Real Property the Building, which is to be of sufficient size (limited only by the ability to lawfully build the same on the Real Property) to meet the needs of the Tenants for all of:

A. All educational programs offered in Henderson County by Wingate University.

B. All allied health educational programs offered in Henderson County by Blue Ridge Community College.

C. Other medical practice, hospital or related needs articulated by Henderson County Hospital Corporation.

7. The County will contract for and secure the construction of the Building, with all the costs for the planning, designing and constructing of the same to be paid from the Construction Loan.

8. The terms of the Construction Loan shall be such that all payments due thereunder are to be made solely by the County. The County shall hold the City harmless from any payment coming due under the Construction Loan.

9. The County will be entitled to all rent paid by any of the Tenants, or any sub-lessees of the Building or the Real Property.

10. The County shall be solely responsible for any regular and customary maintenance and repairs of the Building.

11. The County shall apply such rent as received on account of the Building or the Real Property first to maintenance required on the Building, and then to any indebtedness secured by the Real Property.

12. Should any repair or other maintenance to the Building be required such that the aggregate cost in any fiscal year exceeds One Hundred Thousand Dollars (\$100,000.00), the City will, if so requested by the County, take whatever action is reasonably necessary to subordinate its interest in the Real Property and the Building to any loan procured by the County to pay the cost of such repair or maintenance.

13. The County may from time to time and in its sole discretion refinance the Construction Loan as it desires, in whole or in part, or in combination with any loan to be used to pay for the maintenance or repair of the Building, using the interest of both the City and the County in the Real Property and the Building as collateral for the same, subject to the following:

A. As used herein, "refinance", in addition to its common meaning in ordinary usage, shall also include a new loan used exclusively for the maintenance, repair, remodeling, reconstruction, enlargement, enhancement or replacement of the Building.

B. Under no circumstances shall the City be obligated for the repayment of the Construction Loan or any refinancing of the same.

14. The Leases obtained by the County with Wingate University and Blue Ridge Community College shall run for terms of not less than twenty (20) years.

15. The duties of the City and the County shall be accomplished by the following dates:

Closing of the purchase and conveyance to County	15 July 2014
Title to Real Property as stated in Paragraph 1., above	closing of Construction Loan
Execution of Leases with the Tenants	closing of Construction Loan
Execution of construction contract	closing of Construction Loan
Occupancy	January 2016

16. This Agreement shall terminate upon the occurrence of any of the following events:
- A. The mutual agreement of all parties to terminate this Agreement.
 - B. The inability of the City to secure marketable and insurable title to the Real Property.
 - C. The inability of the County to secure the Construction Loan secured only by the Real Property and the Building to be constructed thereon.
 - D. The expiration of all leases hereunder.
17. The parties have agreed to resolutions, in a form identical in substance to the following, authorizing or ratifying this Agreement.

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RESOLUTION

The City Council of the City of Hendersonville, having reviewed the foregoing Interlocal Agreement, finds that:

1. The duration of the same is reasonable, given the nature and terms of the agreement.
2. The agreement should be ratified as the agreement of the City through the action of its Council, the date and year set forth below.
3. A copy of this Agreement shall be attached to this minutes noting this resolution.

AND UPON MOTION DULY MADE IT IS RESOLVED that this Agreement is ratified.

RESOLUTION

The Board of Commissioners of Henderson County, having reviewed the foregoing Interlocal Agreement, finds that:

1. The duration of the same is reasonable, given the nature and terms of the agreement.
2. The agreement should be ratified as the agreement of the County through the action of its Board of Commissioners, the date and year set forth below.
3. A copy of this Agreement shall be attached to this minutes noting this resolution.

AND UPON MOTION DULY MADE IT IS RESOLVED that this Agreement is ratified.

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Executed this the 4 day of April, 2014.

CITY OF HENDERSONVILLE

By: Barbara G. Volk
BARBARA G. VOLK
Mayor

Attest:

Tammie K. Drake
City Clerk

COUNTY OF HENDERSON

By: Charles D. Messer
CHARLES D. MESSER
Chairman, Board of Commissioners

Attest:

Seresa L. Wilson
Clerk to the Board



WINGATE
UNIVERSITY



Blue Ridge
COMMUNITY COLLEGE

PARDEE
UNC HEALTH CARE

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

FIVE-PARTY AGREEMENT

This Five-Party Agreement (“the Agreement”) is made this the 4th day of April, 2014, by and among the Parties. As used herein, “the Parties” means all of:

-
- The City of Hendersonville, North Carolina, a North Carolina Municipal Corporation (“the City”)
 - The County of Henderson, North Carolina, a body corporate and politic (“the County”)
 - The Board of Trustees of Blue Ridge Community College, a body corporate of the State of North Carolina (“BRCC”)
 - Wingate University, a North Carolina non-profit corporation (“Wingate”)
 - Henderson County Hospital Corporation, a North Carolina non-profit corporation (“HCHC”)
-

Background and Basis for this Agreement

1. The Parties are working collaboratively to establish a campus in close proximity to the Margaret R. Pardee Memorial Hospital campus of HCHC for the purpose of providing certain educational facilities for health care.
2. The goals of the Parties include, but are not limited to, the following:
 - A. To improve the quality and availability of health care to the residents of the County, the City and the surrounding communities;
 - B. To improve the quality and availability of education in health care and other fields to the residents of the County, the City and surrounding communities;
 - C. To create an interdisciplinary educational environment in a stable setting;
 - D. To efficiently use and apply the resources available to the Parties for the education of future health care providers;
 - E. To increase the personal and business prospects of residents and businesses of the City and the County, both within the specific area benefitted by this Agreement, and throughout the County; and,

F. To improve the general and long-term well-being of the Parties, and the citizens and residents of the County, the City and the surrounding communities.

3. The City and the County enter this Agreement, in part, as an “undertaking” as defined in N.C. Gen. Stat. §160A-460(1), to provide physical plant for BRCC, pursuant to N.C. Gen. Stat. §115D-32 *et seq.*, and to enhance business prospects pursuant to N.C. Gen. Stat. §158-7.1(b)(4).

Statement of Agreement

In consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Responsibilities of the City:

A. The City shall obtain title (insurable by a title insurance company licensed to do business in North Carolina) to certain real property located at the northeastern corner of Sixth Avenue West and North Oak Street inside the territorial limits of the City (0.92 acres, more or less, County parcel number 1009121, hereinafter “the Real Property”). The City will pay all the costs of obtaining such title.

B. The City shall cause to be removed any and all structures existing on the Real Property, and provide a space ready for construction as contemplated here, and pay all the costs of the same.

C. The City shall cause the Real Property to be titled in the County in accordance with the terms of the Inter-local Agreement of even date herewith as set forth in paragraph 1.E., below.

D. The City shall allow its interest in the Real Property as collateral to be subordinated to the Construction Loan (described below) or any refinancing. Nothing herein shall be construed as requiring the City to undertake any obligation to make any payment due under such Construction Loan.

E. The City, simultaneously herewith, executes an Inter-local Agreement, pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, setting out in further detail its responsibilities (and those of the County) with regard to the Real Property, the Construction Loan, and the Building (defined below)). Under the terms of the Inter-local Agreement, the County shall have exclusive right to any rental proceeds from the Real Property or the Building.

2. Responsibilities of the County:

A. The County shall secure the services of an architect acceptable to the City, BRCC, Wingate and HCHC for the programming and design of a building suitable to meet the goals of the Parties stated above (“the Building”). Architect approval will not be unreasonably withheld.

B. The County shall after conferring with the City, BRCC, Wingate and HCHC, approve a final design for the Building.

C. The County shall negotiate with an appropriate lending institution an arrangement to secure the Construction Loan. The Construction Loan shall be sufficient to include all costs of programming, design, construction and upfitting of the Building.

D. The County shall pledge its interest in the Real Property as collateral for the Construction Loan.

E. The County shall contract for the construction and upfitting of the Building, with all costs of such contract to be paid from the Construction Loan. The contract shall call for completion of the space by December 1, 2015.

F. The County shall use its best efforts to cause the Building to be ready for occupancy by BRCC and Wingate no later than December 1, 2015.

G. The County shall collect and be entitled to all rent proceeds paid by Wingate, HCHC, or any subtenant of any party in and to the Building or the Real Property.

H. The County, directly through its employees or contractors or indirectly through a separate agreement with any party or parties hereto, shall maintain the Building and pay all the costs or expense thereof.

I. The County shall supplement all the rent proceeds obtained from the Building or the Real Property as is necessary to pay all the costs of the maintenance of the Building and all the payments due under the Construction Loan. The County will indemnify the City from any loss on account of the Construction Loan, any refinancing thereof, or any subsequent loan obtained pursuant to the provisions hereof and secured by the Real Property.

J. The County, simultaneously herewith, executes an Inter-local Agreement, pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, setting out in further detail its responsibilities (and those of the City) with regard to the Real Property, the Construction Loan, and the Building).

3. Responsibilities of BRCC:

A. BRCC shall confer with the County regarding its needs, both for space and facilities, within the Building.

B. BRCC shall by not later than the school term (whether quarter or semester) first beginning after 1 January 2016 locate its allied health education programs currently located on its Flat Rock campus to the Building. So long as there is adequate space in the Building, and during the term of the BRCC's lease for space in the Building, all of BRCC's allied health education programs offered in Henderson County shall be located in the Building. For the purposes of this Agreement, "allied health education programs" only includes academic coursework and does not include clinical training or job or other onsite academic or training services for public and private entities located in Henderson County.

C. BRCC hereby leases the space within the building needed for the location of its allied health education programs.

D. BRCC shall pay no rent for its use of the Building. By not later than the date of the closing of the Construction Loan, BRCC and the County shall execute a document expressing in greater detail all the terms of the lease for the use of space in the Building for a period of at least twenty (20) years. Notwithstanding, however, BRCC and the County agree that this document constitutes a binding and enforceable agreement, with any terms to be determined by a Court in like manner to a determination of price pursuant to N.C. Gen. Stat. §25-2-305.

4. Responsibilities of Wingate:

A. Wingate shall confer with the County regarding its needs, both for space and facilities, within the Building.

B. Wingate shall by not later than the school term (whether quarter or semester) first beginning after 1 January 2016 locate all of its education programs and services currently offered in Henderson County to the Building. So long as there is adequate space in the Building, all of Wingate's health professional education programs and services offered within Henderson, Buncombe, Transylvania or Polk Counties shall be located in the Building.

C. Wingate agrees to lease the space within the Building needed for the location of its programs and services offered within Henderson, Buncombe, Transylvania or Polk Counties.

D. Wingate shall pay Seventeen Dollars (\$17.00) rent per square foot leased, which is the equivalent of the weighted average of the rent per square foot that Wingate currently pays for leased office or educational space within the City of Hendersonville, for its use of the Building. This rent shall include reasonable utility charges for electric service, cooling, heating (no matter the type system), water and sewerage. This rent shall be adjusted after four years from the date hereof, and on a biennial basis thereafter, based on the change in the United States consumer price index for urban consumers since the date of the last adjustment (or the date of the execution hereof, for the first adjustment). By not later than the date of the closing of the Construction Loan, Wingate and the County shall execute a document expressing in greater detail all the terms of the lease for the use of space in the Building for a period of at least twenty (20) years. Wingate shall have the right to sublease the space it leases in the Building. If Wingate decides to sublease any such space, it shall provide notice to HCHC, who shall then have thirty (30) days to notify Wingate whether it decides to sublease the space. If HCHC does not notify Wingate within such period that it will sublease the space, then Wingate shall have the right to sublease the space to any other educational service provider not in direct competition with BRCC, to any medical service provider reasonably acceptable to HCHC, or, upon approval of the County and HCHC (which approval shall not be unreasonably withheld or delayed), to any other sub-tenant. Wingate and the County agree that this document constitutes a binding and enforceable agreement, with any terms to be determined by a Court in like manner to a determination of price pursuant to N.C. Gen. Stat. §25-2-305.

5. Responsibilities of and provisions regarding HCHC:

A. HCHC shall have the right to lease up to 25,000 square feet of space in the Building and provide health care services such as primary care clinic, rehabilitation, physical therapy, and simulation laboratory, in such space, so long as the addition of such space is feasible within the time constraints imposed on the County's performance of its other obligations hereunder. The County shall confer with HCHC during the design of the Building and make a diligent effort to accommodate HCHC's space and design needs, so long as the same can be accomplished within such time constraints. In addition, HCHC shall have the first right to the use of any other space not occupied by BRCC or Wingate in the Building on a year-to-year basis (or as otherwise agreed with BRCC and Wingate). Should HCHC use or lease any space in the building, it shall pay to the County fair market rent per square foot of rentable area leased, using the City of Hendersonville medical office market as the market area for comparisons if necessary, for its use of the Building. In no event shall the rent payable by HCHC per square foot exceed that payable by Wingate.

B. HCHC shall to the maximum extent permitted by law give priority to students enrolled in clinical programs at Wingate and BRCC in filling student clinical vacancies. Nothing herein shall be construed to require HCHC to: create any new space for clinical training; continue to provide any existing training if HCHC determines that it does not have sufficient resources to do so; incur any cost to provide clinical training; terminate any student from another educational facility who is engaged in a training program at HCHC; or make the determination as to priority between BRCC and Wingate students to fill any vacancy.

C. HCHC shall provide sufficient parking space at or near its Justice Street campus to comply with all applicable regulatory zoning and use requirements and to accommodate the reasonable needs of Wingate and BRCC and their respective faculties, students and guests at all times. The Parties agree that each Wingate and BRCC will need at least one hundred (100) parking spaces during peak usage, and HCHC shall make due and diligent efforts to provide this number of spaces for use by Wingate and BRCC at or near its Justice Street campus. Notwithstanding anything contained herein to the contrary, HCHC shall be entitled to expand its existing physical plant upon its existing parking facilities within its discretion provided that it continues to provide sufficient parking space as required in this paragraph. If Wingate and BRCC students, faculty or guests regularly encounter a lack of sufficient parking, HCHC shall take all reasonable action to correct the situation such that sufficient parking is not a regular occurrence and Wingate and BRCC students, faculty and guests have sufficient parking.

6. Responsibilities of the Parties:

A. To execute any and all documents required to effectuate the Agreement, promises and covenants set forth herein.

B. None of HCHC, BRCC or Wingate shall establish within Henderson or Transylvania Counties any new education program that directly competes (a) with any allied health education program or health professional education program offered by the others within Henderson or Transylvania Counties or (b) with any other education program offered by the others within the Building. Further, to the extent allowed by law, neither BRCC nor Wingate shall establish any clinical program which directly competes with any clinical program offered by HCHC. For purposes of this Agreement, "clinical program" shall mean any service, program or clinic whose primary purpose is the provision of health care to individuals. Nothing herein shall prohibit BRCC or Wingate from using other healthcare entities located within Henderson or Transylvania Counties as sites for student clinical placement opportunities.

7. Refinancing of the Construction Loan

The City and the County agree that the County may from time to time and in its sole discretion refinance the Construction Loan as it desires, using its interest in the Real Property and the Building as collateral for the same, subject to the following:

A. As used herein, "refinance", in addition to its common meaning in ordinary usage, shall also include a new loan used exclusively for the maintenance, repair, remodeling, reconstruction, enlargement, enhancement or replacement of the Building.

B. Under no circumstances shall the City be obligated for the repayment of the Construction Loan or any refinancing of the same. The County shall indemnify the City for any loss resulting from the Construction Loan or any refinancing of the same.

C. The City shall execute any and all documents necessary to provide subordinate its security interest in the Real Property to the encumbrance of the Construction Loan and any refinancing.

8. Other Provisions:

A. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed on signature pages exchanged by facsimile or other electronic means, in

which event each party shall promptly deliver to the others such number of original executed copies as the others may reasonably request.

B. This Agreement may be amended or modified only in a writing signed by the Parties. No party may assign its rights or obligations under this Agreement without the prior written consent of the other party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties, contracting with each other solely for the purpose of effecting the provisions of this Agreement and any other agreements between the Parties concerning their business relationship.

C. This Agreement will be governed by the laws of the State of North Carolina. The parties agree that the exclusive venue for any court action involving the Agreement shall be brought in the General Court of Justice for North Carolina, in Henderson County.

D. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasion shall be deemed a waiver of performance of any continuing obligation, or prohibit enforcement of any obligation, on any other occasion.

E. Nothing herein shall be construed as giving any party control over, or the right to control, the judgment or actions of another party, and each party shall at all times act as and be deemed to be an independent contractor, subject to the contractual conditions, obligations and limitations set forth herein. This Agreement shall not be construed as creating a partnership or joint venture. Except as explicitly set forth herein, neither party shall hold itself out as or act as an agent of the other party, nor have the power to obligate the other party with respect to third parties in any way.

F. Confidentiality: Prior to a public statement coordinated among the Parties announcing the arrangement, each of the Parties agree that no Party will issue any formal public statement pertaining to or arising out of the subject matter of this Agreement without the express written consent of all other Parties to this Agreement, which consent shall not be unreasonably withheld.

G. No party shall be obligated to perform any of its obligations pursuant to this Agreement that it is prevented from performing by law, act of God, war, strike, labor unrest, unavailability of supplies or services, or similar events beyond the party's reasonable control, for the period of time the applicable event continues, but not including any obligation it is prevented from performing due to the party's own negligence, malfeasance, or where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. To the extent practicable, the party prevented from performing any obligations pursuant to this subsection shall provide notice to the other party immediately upon the happening of such event that prevents performance, including a list of the obligations the party will be prevented from performing and the anticipated timeframe in which the party will be prevented from performing.

H. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement to the extent permitted by law shall remain in full force and effect provided that the essential terms and conditions of this Agreement remain valid, binding and enforceable. In the event of any such determination, the Parties agree to negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes hereof. To the extent permitted by law, the Parties hereby to the same extent waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

I. All notices or elections required or permitted to be given or served hereunder shall be given or served only (i) by hand delivery, (ii) by United States mail, registered or certified mail, return

receipt requested, postage prepaid, or (iii) by a national overnight courier service, properly addressed as follows:

If to the County:

County of Henderson
c/o Office of the County Attorney
1 Historic Courthouse Square, Suite 5
Hendersonville, North Carolina 28792

If to the City:

City of Hendersonville
c/o Office of the City Attorney
Post Office Box 1670
Hendersonville, North Carolina 28793

If to BRCC:

Blue Ridge Community College
180 West Campus Drive
Flat Rock, North Carolina 28731

With copy to:

Chad Ray Donnahoo
Campbell Shatley PLLC
674 Merrimon Avenue, Suite 210
Asheville, North Carolina 28804

If to Wingate:

Wingate University
Stegall Administration College
Wingate, North Carolina 28174-0157

If to HCHC:

Henderson County Hospital Corporation
800 N. Justice Street
Hendersonville, North Carolina 28739

With copy to:

Sharon B. Alexander
Prince, Youngblood & Massagee, PLLC
240 Third Avenue West
Hendersonville, North Carolina 28739

Each such notice shall be deemed to have been given or served when delivered by hand delivery, or (I) if given by mail, three (3) business days after the date the notice is deposited in the United States mail, in the manner above provided, or (II) if given by courier, one (1) business day after the date the notice is

deposited with the courier service in the manner above provided. Each party may change its notice address set forth above by at least ten (10) days prior written notice given in the manner provided above.

- J. This Agreement shall terminate upon the occurrence of any of the following events:
- (1) The mutual agreement of all parties to terminate this Agreement.
 - (2) The inability of the City to secure marketable and insurable title to the Real Property.
 - (3) The inability of the County to secure the Construction Loan secured only by the Real Property and the Building to be constructed thereon.
 - (4) The expiration of all leases hereunder.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized agents effective as of the date first above written.

CITY OF HENDERSONVILLE

By: Barbara G. Volk
BARBARA G. VOLK
Mayor

Attest:

Tammie K. Drake
City Clerk

COUNTY OF HENDERSON

By: Charles D. Messer
CHARLES D. MESSER
Chairman, Board of Commissioners

Attest:

Teresa L. Wilson
Clerk to the Board

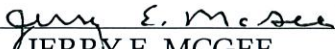
BLUE RIDGE COMMUNITY COLLEGE

By: John C. McCormick, Jr.
JOHN C. MCCORMICK, JR.
Chairman, Board of Trustees

Attest:

Mark A. Palko
Secretary to the Board

WINGATE UNIVERSITY

By: 
JERRY E. MCGEE
President


Attest:

Corporate Secretary

HENDERSON COUNTY HOSPITAL CORPORATION

By: 
JAMES M. KIRBY
President and Chief Executive Officer

Attest:


Corporate Secretary