

A G E N D A

LINCOLNTON CITY COUNCIL

November 7, 2013

7:00 p.m.

Council Chambers

City Hall

FOR YOUR CONVENIENCE A COPY OF
TONIGHT'S AGENDA
IS AVAILABLE, LOCATED TO THE
RIGHT OF THE ENTRANCE TO THE
COUNCIL CHAMBERS

*ANYONE WISHING TO SPEAK
DURING THE PUBLIC COMMENT
PORTION OF THE AGENDA
PLEASE SEE THE CITY CLERK PRIOR
TO THE MEETING TO SIGN UP
NON-AGENDA ITEMS WILL BE
DISCUSSED AND SPEAKERS WILL BE
LIMITED TO THREE (3) MINUTES
A COPY OF THE RULES FOR PUBLIC COMMENT
ARE AVAILABLE AT THE CITY CLERK'S DESK*

THANK YOU FOR ATTENDING
OUR MEETING
AND FOR YOUR INTEREST
IN THE CITY OF LINCOLNTON

A G E N D A

LINCOLNTON CITY COUNCIL

November 7, 2013

7:00 p.m.

CALL TO ORDER – Mayor John O. Gilleland, Jr.

PLEDGE OF ALLEGIANCE

1. Approval of Regular Agenda

2. Approval of CONSENT AGENDA:

All items placed under the Consent Agenda are considered routine, to be enacted by one motion without discussion. If a member of the Governing Body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.

3. Approval of Minutes from the October 3, 2013 regular meeting

(R-15-13)

4. Resolution to surplus the gun and badge for retiring Lt. Kenny Shrum – Lincolnton Police Department (*Glock.45 Caliber Model 37 – Serial # GBH533*)

5. Proclamation honoring Veterans Day – November 11, 2013

6. Calls to Public Hearing for the December 5th City Council meeting:

- **CU-ZMA-1-2013 – Application from William Wright and William Hovis requesting the conditional use rezoning of property located at 2377 Highway 150 East (Parcel ID 29440). The applicant request the rezoning of Neighborhood Business (NB) to Conditional Use Planned Business (CU-PB). The conditional use permit would allow him to operate an Automobile Sales Lot and Offices on the property.**
- **CUP-7-2013 – Application from Thomas Ivey requesting a conditional use permit to operate an Automobile Sales Lot in the Planned Business (PB) District. The subject property is located at 210 North Generals Blvd. (Parcel ID 00972).**

AGENDA

November 7, 2013

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REGULAR AGENDA:

RESOLUTIONS

(R-16-13)

7. Resolution honoring Lt. Kenny Shrum – Lincolnton Police Department on his upcoming retirement – December 1, 2013

Mayor Gilleland

8. Resolution honoring David Hester – Equipment Operator for Street & Property Maintenance – City of Lincolnton on his upcoming retirement – December 1, 2013

Mayor Gilleland

CONTRACT

(C-19-13)

9. Consideration of awarding proposed contract for sidewalk repair on Newbold St. and Timken Drive to Custom Paving Company in the amount of \$ 109,333.00

Jeff Emory, City Manager

OTHER BUSINESS

10. Consideration of Insurance Settlement Agreement from Allied World National Assurance Company for \$ 225,000.00

Jeff Emory, City Manager

11. Consideration of Special Event and Film Policy/Ordinance

Laura Simmons, Planning Director

OTHER BUSINESS

12. Update on East Main Street Intersection Project

Laura Simmons, Planning Director

13. Monthly Financial Update/Overtime Report

Jeff Emory, City Manager

PUBLIC COMMENT

*Speakers will be limited to three (3) minutes to address Mayor and City Council
Concerning Non-Agenda Items.*

You must sign in with the City Clerk prior to the meeting to be eligible to speak.

NEWS MEDIA

ADJOURNMENT

CLOSED SESSION

In accordance with NCGS 143-318.11(a)(6)
to discuss personnel

ITEM #

1

APPROVAL

OF

REGULAR

AGENDA

ITEM #

2

APPROVAL

OF

CONSENT

AGENDA

ITEM #

3

REGULAR MEETING - OCTOBER 3, 2013

The Mayor and City Council met in regular session on Thursday, October 3, 2013 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street, Lincolnton. Those in attendance were:

RHYNE CLONINGER HEAVNER HOVIS

Mayor Gilleland called the meeting to order and thanked all those attending for their interest in local government. He led the Pledge of Allegiance.

Mayor and City Council members extended their sympathy to City Manager for the recent death of his father.

Councilman Heavner made the motion unanimously approved the *REGULAR AGENDA*

Councilman Cloninger made the motion unanimously approved the *CONSENT AGENDA* as follows:

- Approved of Minutes from the September 12, 2013 – Regular Meeting
- Approved (P-01-13) amendment to the City's Record Retention Policy in accordance with the NC Department of Cultural Resources Records Retention and Disposition Schedule – (last amended September 10, 2013)

REGULAR AGENDA

APPLICATION FROM LINCOLN ECONOMIC DEVELOPMENT ASSOCIATION REQUESTING A CONDITIONAL USE PERMIT FOR A COATINGS BUSINESS IN THE GMC DISTRICT. THE USE WILL OCCUPY THE EXISTING BUILDING LOCATED AT 569 SOUTH GROVE STREET (PARCEL ID 54841):

CUP-6-2013

Mayor Gilleland opened the Public Hearing. The City Clerk administered the oath to all those wishing to speak for or against the issue. Laura Simmons, Planning Director, reviewed the request from LEDA for a conditional use permit for a coatings business in the GMC District.

Laura said the property is approximately 5.8 acres in size and is located at 569 South Grove Street, the former Carolina Mills building. If the permit is

REGULAR MEETING - OCTOBER 3, 2013

approved the powder coatings business would electro statically apply powder coating to cast, cut, stamped and welded steel parts for customers. The operation would include washing, conversion coating and powder coating processing. The parts are then baked to cure the coating. The proposed hours of operation are first shift, 6 am until 2:30 pm, five days per week and second shift from 2:30 to 12:30 am, four days per week. They would employ 12 to 15 people at this location. Additional shifts and employees could be added later.

Laura reviewed the applicant's compliance with the conditional use permit application, section 153.237 and 153.238 of the UDO as well as the staff review committee comments. She concluded recommending approval of the conditional use permit on behalf of Planning Board and Staff provided the staff review committee requirements are met.

Mrs. Crystal Gettys, of Lincoln Economic Development Association, spoke in favor of the request. Crystal thanked the departments involved in providing information for this project, saying everyone worked well with the company gathering information and reviewing the requirements.

Mayor Gilleland said he hopes this project works out as he would like to see revitalization in that area. Mrs. Gettys felt if approved, the renovations could attract others to the area as well.

Mr. Robert Tomlinson spoke regarding this request. He was concerned about the type of business and the traffic it may generate in that area. He resides on Grove Street. He asked, "What is the fascination with North Grove Street?" He also expressed concern with the speed on Grove Street, saying he realized it is a state street and the City is not responsible but he hasn't heard back from the City or the State regarding his concerns. He spoke about several other items not related to the public hearing, exceeding five minutes.

Councilman Rhyne made the motion unanimously approved to close the Public Hearing.

Councilman Cloninger made the motion unanimously approved to consider the conditional use permit.

REGULAR MEETING - OCTOBER 3, 2013

Findings of Fact:

- (1) Councilman Heavner made the motion unanimously approved that the use will not materially endanger the public health or safety if located where proposed and developed according to plan.
- (2) Councilman Hovis made the motion unanimously approved that the use meets all required conditions and specifications.
- (3) Councilman Cloninger made the motion unanimously approved that the use would not substantially injure the value of adjoining or abutting property or the use is a public necessity.
- (4) Councilman Rhyne made the motion unanimously approved that the location and character of the use, if developed according to plan as submitted and approved, would be in harmony with the area in which it is to be located and would be in general conformity with the Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.
- (5) Councilman Heavner made the motion unanimously approved that the use would not overly impact the ability of the City to collect and/or treat any wastewater generated by the use or the ability of the City to treat and distribute any potable water needed by the use.
- (6) Councilman Rhyne made the motion unanimously approved that the use would not overly impact (impact beyond capacity) the system of streets serving the use or that improvements would be made to the streets in consort with the development of the use, the result of which would be adequate handling of the additional traffic generated.
- (7) Councilman Cloninger made the motion unanimously approved that not only would the use meet the minimum screening requirements of this chapter, but also that such additional screening would be installed, as necessitated by the visual characteristics of the particular use, that the use would screen from view of adjoining residential districts, or that the nature of the topography makes the screening from distant view from such residential areas impossible and that other measures such as heavy on-site landscaping would be taken to lessen any near or distant visual impacts.

Councilman Rhyne made the motion unanimously approved to grant the conditional use permit as recommended by Planning Board and staff.

REGULAR MEETING - OCTOBER 3, 2013

Councilman Cloninger said, "I would like to congratulate LEDA on bringing someone in here to occupy an 82,500 square foot structure. We are happy they are coming to Lincolnton."

PROPOSED AMENDMENT TO CHAPTER 153, UNIFIED DEVELOPMENT ORDINANCE, TO REVISE THE PROVISIONS RELATED TO THE BOARD OF ADJUSTMENT TO MAKE THEM CONSISTENT WITH RECENTLY ENACTED STATE LEGISLATION.

ZTA-3-2013

Mayor Gilleland opened the Public Hearing. Laura Simmons, Planning Director, reviewed the request from planning staff to amend language in the LUDO to make the necessary changes to the provisions regarding the Board of Adjustment. Laura told Council that recently enacted legislation, Session Law 2013-126 (HB 276), "An Act to Clarify and Modernize Statutes Regarding Zoning Boards of Adjustment" requires the City to amend our current ordinance language. She said the Planning Board and staff recommend that the following changes be made to conform to the new legislation:

Amend Section 153.277, VARIANCES, to revise the findings of fact that must be made to approve a variance. The new language eliminates the "practical difficulty" language and replaces it with "unnecessary hardship" and defines what constitutes "unnecessary hardship".

Amend Section 153.280, APPLICATION PROCEDURE, to change the vote requirement from a four-fifths majority to a simple majority for approval of a request for an administrative review or for a request for a change in non conforming use. (Approval for a variance request would still require a four-fifths majority vote).

Councilman Heavner made the motion unanimously approved to close the public hearing.

Councilman Rhyne made the motion unanimously approved to amend the Lincolnton Unified Development Ordinance as recommended.

REGULAR MEETING - OCTOBER 3, 2013

APPOINTMENT TO THE LINCOLNTON-LINCOLN COUNTY AIRPORT AUTHORITY -TO FILL A VACANCY (UNEXPIRED TERM THROUGH DECEMBER 2015):

(APPT-02-12)

Mayor Gilleland told Council that two applications had been received for the recent vacancy on the Lincolnton-Lincoln County Airport Authority. Both were completed and turned in within the advertised time frame, and both are City residents. Mr. John Anderson and Mr. Leon Harmon were the two applicants.

Councilman Hovis made the motion unanimously approved that Mr. Leon Harmon be appointed to fill the unexpired term of the late Joe Polhill, beginning immediately with a term expiration of December 2015. *Note: In accordance with City Policy the appointee would be eligible to be appointed and serve a first three year term at the conclusion of filling the unexpired term, if Council so chooses.*

Councilman Cloninger said that both applicants would serve the City well in this capacity and ask that Mr. Anderson be encouraged to reapply for future vacancies to this board. The City Clerk was directed to contact him accordingly, as a position would be available in December of 2013.

UPDATE ON EAST MAIN STREET INTERSECTION PROJECT:

Leonard Fletcher, TGS Engineering, provided Council a map and a signalized intersection estimate for the proposed intersection upgrades for East Main and Generals Blvd. The figures provided were as of May 28, 2013. The total proposed cost of the intersection improvements were \$ 613,140.00.

Mr. Fletcher said the study has been completed. He had discussed with NCDOT the options of a round-about for the proposed intersection. Mr. Fletcher said, "After traffic counts and traffic analysis, the ten year projection showed the round-about would fail. The best option was signal improvements. Two recommendations were; a turn lane south on Generals Blvd, also putting a double left on Main Street headed West, but having no right of way available there would be too costly." "The other alternative would be to add a median. They are recommending that politically, they can stand it if you all can stand it. No one would be able to turn out across traffic, a right in right out would be installed. He used Wendy's as a example, saying they have signage saying no left turn, only a right turn coming out, but people do not follow the signage.

REGULAR MEETING - OCTOBER 3, 2013

The median would prohibit a left turn. He said this intersection has the highest count for traffic accidents in Lincoln County.”

The grant plus the city’s portion is \$ 580,000. NCDOT committed to pay for the paving in that intersection. With them participating it will make this a much better project. It won’t be so hard for you to spend your money if they spending more than you are spending, at least you will be getting a safer intersection also. He has met with Mike Holder three times and he has agreed to pay but is trying to tie down his funding source. Laura and I discussed not accepting the grant to do the work until they can come up with their part.

The City Manager said the NCDOT verbal agreement is not in the estimate provided.

Councilman Rhyne said you would not be able to go East and turn left with the median. When traffic gets high you have to do away with your left turn.

Councilman Cloninger said doing away with the wires would be a plus, Mr. Fletcher said metal mask arms would replace the poles, and some of the wires would be ran under ground.

Councilman Rhyne asked if the pedestrian signals would be push button, Mr. Fletcher said, “You wouldn’t put one in, that didn’t have it.”

Mr. Fletcher said, “The paving of the intersection, and removal of asphalt would probably about cost about \$ 100,000, and NCDOT has verbally agreed to pay for this portion of the project. But with lane changes and things NCDOT may have to put another \$ 100,000.” Councilman Rhyne questioned the total project amount adding the paving. Mr. Fletcher said, “The project would in fact be \$ 600,000. This is the project estimate, there have been twenty different estimates since this estimate. Trust me the paving is in there.”

Councilman Rhyne found it odd that a big number like that would not be listed separately in the project cost. Mr. Fletcher said, “This is not exactly the latest estimate.”

Councilman Rhyne said, “Why wouldn’t the newest estimate be brought to us tonight when the study began in March?” Mr. Fletcher said, “I recently met with Mr. Holder on September 26th this is a courtesy visit tonight and I was not prepared to give a final number.”

REGULAR MEETING - OCTOBER 3, 2013

Councilman Rhyne said, "I beg to differ, the courtesy came with a \$ 20,000 check. I think we ought to see something closer than a May 28th estimate." Mr. Fletcher said, "Mr. Holder hasn't given me a definite figure, and hopefully in November you will have an estimate and it will be accurate. I'm not going to give you a number I can't guarantee. Trying to negotiate and get things for the City just takes time. It takes time to work with them and time to work it out. I am not ready at this point to give you a final number but hopefully will be able to at the November meeting."

UPDATE ON RECENT FLOOD DAMAGE; REPORT FROM INSURANCE CARRIER ON COVERAGE:

Jeff Emory, City Manager, said he continues to work with the insurance company. The insurance company is to have a meeting tomorrow and hopefully notification will be given to us soon. We are working with them as closely as we can and providing them the necessary information they have requested.

Mr. Emory said First Citizens is working extremely well with the City. He has told City Attorney TJ Wilson and First Citizens Insurance if the decision does not look favorable for the City we may want to explore some sort of legal action. He said, "We firmly believe the coverage is there the way we interpret the policy." Jeff told Council if he learns anything definite prior to the next Council meeting he would share the information with them as soon as it is received. He will plan to provide and update on the status of the claim at the November 7th meeting.

Councilman Rhyne said he serves on the Recreation Board and he asked about a timeframe for repairs to the gym floor. He said he was told the project would cost around \$ 80,000 and whether it is repaired now or in June the money would be coming from the same budget year. Mr. Emory noted that was a good point but he has a lot of concerns from a budgetary standpoint. He said he would be prepared to move forward asking Council for a decision at the November meeting.

UPDATE ON SPECIAL EVENTS ORDINANCE AND UPDATE ON APPLE FESTIVAL - COST TO THE CITY:

Jeff Emory, City Manager, said at the direction of Council he went back and figured the overtime expense for this year's Apple Festival. Right now personnel wise the City spent around \$ 12,000.

REGULAR MEETING - OCTOBER 3, 2013

Laura Simmons provided a brief update on the Special Events Ordinance. She said that meetings are underway with discussions on going about a draft ordinance. The number of event's have increased over the years as has the request for filming in Lincolnton. She said they are looking at a separate ordinance for the filming portion and they plan to bring those back to City Council at the November meeting.

Councilman Rhyne said he would like to see what the City does and doesn't do, who is allowed to use what equipment owned by the City, etc. Laura said cities surveyed are in to cost recovery for filming. Mayor Gilleland said the biggest factor with filming is to have a deposit upfront. Councilman Rhyne said it also important not to price ourselves out but to cover any cost to the City.

EXECUTIVE SUMMARY (MONTHLY FINANCIAL REPORT/OVERTIME REPORT):

Jeff Emory, City Manager, reviewed the report provided by Finance regarding the various funds for the City. He said currently, in the general fund, our cash flow balance is \$ 46,000 below last year's balance. He said "The Water & Sewer fund is \$ 100,000 below and that really concerns me." "Revenues are more than \$ 100,000 less than this time last year and that is directly related to billing."

The Mayor said the revenues are down almost a \$ 250,000 for the first quarter of this fiscal year. Jeff said, "The Electric fund is good at this time." He expressed concerns about the amount of overtime reported, and said he plans to address that with the various departments. Councilman Rhyne questioned why the amount was 50% higher this year as compared to last, Mr. Emory said he was not prepared to answer that without looking at his overtime report.

UPDATE ON CHERRYVILLE WATER CONTRACT AND LINCOLN COUNTY CONTRACTS:

Mayor Gilleland told Council he had met with Cherryville Mayor Bob Austell and City Manager Ben Blackburn. He said it was a very good meeting and a very open meeting, obviously way out in front of getting into any details. We discussed \$ 1.25 per 1000 gallons and they are not interested. We have guaranteed them some water to sell to Cherryville and that is up for discussion. Cherryville's marginal cost to produce water is .35 compared to Lincolnton's .32, so they were not interested in purchasing water from Lincolnton at this point.

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Jeff Emory, City Manager, told Council that the City Attorney made the revisions to the proposed contracts and they have been delivered to the Lincoln County Manager. Jeff said he did not get a timeframe for a response for those revised contracts. He will let the City know if he hears back from the County Manager regarding this matter.

Councilman Hovis made the motion to approve the revised contracts forwarded to Lincoln County. The City Attorney noted that the action approving the contracts as revised was taken at the September 12th meeting, therefore no action would be necessary at this meeting. Councilman Hovis withdrew his motion.

Mayor Gilleland said, "I would like to get the County back to the table especially being down in revenues a quarter of a million dollars in just the first three months of this fiscal year." Jeff noted that amount was both water and sewer.

Councilman Rhyne asked about the Airport contract. He said he feels that needs to be addressed as to how the funding will be handled. Mr. Emory said, "Lincoln County said that is totally up to the City, it is stand alone and they put that one in our court." It was determined that this item will need to be discussed in the near future. Councilman Rhyne wanted to make sure it did not fall by the way side.

Councilman Hovis noted that Councilman Heavner's birthday was yesterday and he wanted to wish him a happy birthday and note that he has served on City Council for over thirty years. The City Clerk noted he has over thirty-five years of service and according to her records is the longest serving elected official in Lincolnton's history.

PUBLIC COMMENT:

Mr. Dale Punch, told Council the recent action regarding the "trash tax" was democracy at work. He thanked them for resending the fee and the ordinance. He commented on the amount the City projected they spent on the Apple Festival clean-up, saying "\$ 10,000 was spent and no one got drunk". He felt while the event was good, with BBQ vendors coming to town, he felt it could be a one day event rather than two days. Dale said he had asked Brad Guth in an email what the event does to help businesses in downtown. He has had no

REGULAR MEETING - OCTOBER 3, 2013

reply. Mayor Gilleland asked the City Manager to talk with Mr. Guth and get Dale's question answered.

Mayor Gilleland said he had concerns with the motorcycles as a safety issue when doing the tricks on Water Street. He said there needs to be a barrier where someone can't get hurt. Councilman Rhyne said concerns are being addressed based on recent meetings he has been in with the Hog Happenin Committee, he said "Peoples voices are being heard".

Robert Tomlinson spoke to Council regarding the proposed intersection at East Main Street and Generals Blvd. He had concerns as to why the City would put money toward a state owned intersection. He also expressed concerns regarding police protection at the Apple Festival.

NEWS MEDIA:

There were no questions from the News Media.

ADJOURNMENT:

Having no other business Councilman Rhyne made the motion unanimously approved to adjourn the meeting.

DONNA C. FLOWERS, MMC
CITY CLERK

JOHN O. GILLELAND, JR.
MAYOR

ITEM #

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CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
John L. Cloninger, Mayor Pro-Tem
Devin Rhyne
Carroll Heavner
Larry Mac Hovis



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, CMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

RESOLUTION

(R-16-13)

WHEREAS, pursuant to G.S. 160A-265 the City of Lincolnton may dispose of personal property in the discretion of the City Council; and

WHEREAS, the City of Lincolnton has the following items of personal property issued to the below named City Police Officer:

Lt. Kenneth Shrum – Glock .45 Caliber Model 37 - Serial # GBH533

WHEREAS, the City Manager shall be authorized to dispose of the property by the direction of the City Council and in accordance with City policy will have \$ 255 (current value of the handgun) deducted from the eligible monetary amount of \$ 600, with a remaining \$ 345 given to him upon retirement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincolnton that the above mentioned property become surplus and be presented to the above named retiree in honor of their tenure and dedication to the City of Lincolnton.

ADOPTED this the 7th day of November 2013.

John O. Gilleland, Jr.
Mayor

Attest:

Donna C. Flowers, CMC
City Clerk

ITEM #

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CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
John L. Cloninger, Mayor Pro-Tem
Devin Rhyne
Carroll Heavner
Larry Mac Hovis



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, CMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

PROCLAMATION

VETERANS DAY

WHEREAS, the freedoms we enjoy as Americans have been purchased and maintained at a high price throughout our history; and

WHEREAS, since the establishment of the original 13 states, Americans have been willing to fight and die to preserve their individual rights as guaranteed in the United States Constitution and the Bill of Rights; and

WHEREAS, we owe a great debt to those who have served in defense of this nation; and

WHEREAS, throughout the generations, their sacrifices have preserved our unique form of government dedicated to human rights and respect for the individual; and

WHEREAS, for many, that sacrifice had ended in permanent injury or death, yet their spirit remains in the continued preservation of our freedoms and the promise of liberty established as an example for all the oppressed persons of the world; and

WHEREAS, in honor of these dedicated men and women, we pledge our continued defense of our nation so that their sacrifice will stand before the entire world as a tribute to the spirit and determination of people dedicated to the principles of freedom and democracy.

NOW, THEREFORE, on behalf of the City of Lincolnton, North Carolina, by the virtue of the authority vested in me as Mayor, I hereby urge all citizens to honor our Veterans and call upon all Veterans to wear their medals in observance of Veterans Day so that all will have the opportunity to express appreciation for their service.

IN WITNESS WHEREOF I have set my hand and
caused the Great Seal of the City of Lincolnton to be
affixed this 11th day of November 2013.

JOHN O. GILLELAND, JR.
MAYOR

ITEM #

6

Donna Flowers

From: Mark Carpenter
Sent: Tuesday, October 29, 2013 9:08 AM
To: Donna Flowers; Daphne Ingram; Laura Simmons
Subject: Calls to Public Hearing

We have received to items that need to be called to public hearing at the November City Council Meeting. They are as follows:

- CU-ZMA-1-2013-Application from William Wright and William Hovis requesting the conditional use rezoning of property located at 2377 Highway 150 East (Parcel ID 29440). The applicant request the rezoning from Neighborhood Business (NB) to Conditional Use Planned Business (CU-PB). The conditional use permit would allow him to operate an Automobile Sales Lot and Offices on the property.
- CUP-7-2013- Application from Thomas Ivey requesting a conditional use permit to operate an Automobile Sales Lot in the Planned Business (PB) District. The subject property is located at 210 North Generals Blvd (Parcel ID 00972).

Mark A. Carpenter, AICP, CZO

Zoning Administrator
City of Lincolnton
P.O. Box 617
Lincolnton, NC 28092

Phone 704-736-8930
Fax 704-736-8939

ITEM #

7

**RESOLUTION
(R-16-13)
Of Appreciation For**

KENNETH M. SHRUM

WHEREAS, *Kenneth M. Shrum* began employment with the City of Lincolnton on March 26, 1991 as a Police Officer with the Lincolnton Police Department; and

WHEREAS, *Kenneth M. Shrum* has proven his leadership qualities, rising through the ranks in 1994 to a Police Sergeant; then in 1999 a Police Lieutenant of the Crime Prevention Division. He played an active role in the Community Policing Program, assisting in initiating a Community Watch Program in the Public Housing Area; and

WHEREAS, *Kenneth M. Shrum* throughout his career took top honors in Defensive and Precision Driver Training; Received Advance Law Enforcement Certificate and earned an Associate Degree in Criminal Justice all while working full time in law enforcement; and

WHEREAS, *Kenneth M. Shrum*, has served as a role model, providing excellent Public Safety in the Law Enforcement Sector, to the citizens of Lincolnton for over twenty two years; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lincolnton that appreciation be shown to *Kenneth M. Shrum* honoring him on his upcoming retirement on December 1, 2013, and that we extend congratulations and best wishes to him for continued success in all his future endeavors.

Adopted and presented this the 7th day of November, 2013.

DONNA C. FLOWERS, MMC
CITY CLERK

JOHN O. GILLELAND, JR.
MAYOR

ITEM #

8

RESOLUTION
Of Appreciation For
(R-17-13)

LAWRENCE D. HESTER

WHEREAS, *Lawrence D. Hester* began employment with the City of Lincolnton on April 22, 1992 as a Street Maintenance Worker I; and

WHEREAS, *Lawrence D. Hester* now an Equipment Operator with the Street and Property Maintenance Division has worked tirelessly maintaining City Streets, sidewalks, and green areas assisting with beautifying our City for our citizens and its visitors; and

WHEREAS, *Lawrence D. Hester* during his twenty-one years with the City, completed training through UNC, Institute of Transportation Research & Education, and Asphalt Pavement Maintenance; and

WHEREAS, *Lawrence D. Hester* has demonstrated unselfish commitment to his job, his fellow employees, and to the citizens of Lincolnton for the continued betterment of our City; and

WHEREAS, it is the desire of the governing body of the City of Lincolnton to recognize and officially commend *Lawrence D. Hester* for his valuable and outstanding service rendered to the City of Lincolnton and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lincolnton that we congratulate *Lawrence D. Hester* on his upcoming retirement, December 1st, 2013, and wish him continued success in all his future endeavors.

Adopted and presented this the 7th day of November 2013.

DONNA C. FLOWERS, CMC
CITY CLERK

JOHN O. GILLELAND, JR.
MAYOR

ITEM #

9

CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
John L. Cloninger, Mayor Pro-Tem
Devin Rhyne
Carroll Heavner
Larry Mac Hovis



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, CMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

MEMORANDUM

TO: Mayor and City Council Members

FROM: Jeff Emory, City Manager *JE*

SUBJECT: Newbold Street and Timken Drive Sidewalk Project

DATE: November 1, 2013

During last fiscal year City Council authorized the construction of a sidewalk along Newbold Street and Timken Drive. When the City went to the North Carolina Department of Transportation to acquire the necessary right-of-way to construct the sidewalk, we were informed that as a new standard of the DOT, they would have to review and approve the actual construction plans. This is the first time the City had ever been faced with this.

The DOT made suggestions several times and the City would go back and adjust the plans according to their requirements. This went back and forth for many months. DOT, after several times of sending the plans back to us with their changes, finally approved the plans just a few weeks ago. Because the plans had changed so much I decided to accept proposals again for the work. Based on the amount this was not a formal bid process. We requested bids using the informal process. Only one bid was received. The bid received is from Custom Paving Company in the amount of \$109,333.00. The original bid was \$53,000.00. I have attached an email explaining the dramatic increase.

I would recommend that the City take the funds allocated from this year's Powell Bill Allocation to complete this project. There will be no other sidewalk work completed unless Council directs us to do so. What this means is between last fiscal year and the current fiscal year the only major sidewalk work we will have completed is this particular sidewalk.

Also speaking of Powell Bill in addition to \$100,000.00 allocated this year for sidewalk work, we also have \$150,000.00 allocated for street resurfacing. I would recommend that the

MEMORANDUM

Newbold Street and Timken Drive Sidewalk Project

Page 2

City complete about \$50,000.00 worth of street repair, and take the remaining \$100,000.00 to go toward the intersection improvement project. If this is done the City will actually only have to take a minimal amount from the Powell Bill Fund Balance to meet our twenty percent requirement for the intersection project. If you have any question do not hesitate to contact me. Thank you.

Jeff Emory

From: Robert S. Buff
Sent: Wednesday, October 30, 2013 4:22 PM
To: Jeff Emory; Stephen H. Peeler
Subject: Newbold/Timpkin Sidewalk Project

Jeff

I have the quote you ask for concerning this project. Robert Skidmore's original quote received on 8/23/12 was for \$53,180.60, which was before NC-DOT requested significant changes to the specs. Skidmore is no longer a private contractor and his company has been absorbed by a larger paving company.

Pease engineering has drawn several sets of plans and each time more changes were required. During this time NC-DOT paved Newbold St. and required another change in plans because of change in the elevations of the inlets. Additional catch basins, storm water piping, sub-grade changes and performance bonding are the primary issues driving the cost increase. I will study the plans and report to you a more detailed analysis.

Rob

City of Lincolnton

Subject: Request for Bid

Date: October 2, 2013

The City of Lincolnton is now accepting bids for a sidewalk project on Newbold Street and Timken Drive. Project will be on NC-DOT right of ways and roads. Project will require certificates of insurance, e-verify and bonding. Please respond by 5:00 PM Tuesday October 8th if interested.

Plans are available at City of Lincolnton Public Service Center located:
128 Motz Ave.
Lincolnton, NC 28092

For questions contact:
Rob Buff, Assistant Director of Public Works
704-736-8940

CUSTOM PAVING COMPANY

Since 1967

Grading - Paving - Utilities - Concrete

PO Box 6280
Gastonia, NC 28056

NC License 6736
SC License G11938

Phone: (704) 865-2479
Fax: 704-868-8408

www.custompavingcompany.com

PROPOSAL/CONTRACT

Submitted To:	City Of Lincolnton	Proposal Date:	9/13/2013
Principal / Owner:	Mr. Robert Duff	Project Name:	Newbold St. Sidewalk Improvements
Address:		Project Address:	Newbold St.
City, State, Zip:		City, State, Zip:	Lincolnton, NC
Phone:		Estimator:	Jeff Webb
Email:	robduff@ci.lincolnton.nc.us	Estimator Email:	jw@customslitedevelopment.com

We herewith submit our proposal to furnish labor, equipment, materials and supervision required to complete the below outlined project on subject job, in consideration of the terms, conditions and stipulations incorporated herein.

Description	Quantity	U/M	Unit Price	Total
ENGINEERING & LAYOUT	1	LS		
MOBILIZATION	1	LS		
TOTAL				\$ 1,500.00

EROSION CONTROL

Temporary Silt Fence
Grassing

1161	LF		
19236	SF		
TOTAL		\$	5,675.00

GRADING

Import Dirt (Off-Site Borrow)
Export Misc.
Fine Grade Curb and Gutter
Fine Grade Sidewalks
Backfill Sidewalks

30	LD		
6	LD		
1031	LF		
600	SY		
1080	LF		
TOTAL		\$	16,525.00

STORM DRAINAGE

15" RCP CL3
15" HDPE
15" HDPE FES
2' x 3' Catch Basins (0-6')
Connect To Existing Pipe

80	LF		
15	LF		
1	EA		
3	EA		
1	EA		
Total		\$	13,140.00

Initialed By: Custom Paving Company

Customer _____

CUSTOM PAVING COMPANY

Since 1967

PO Box 6280
Gastonia, NC 28056

Grading - Paving - Utilities - Concrete

NC License 6736
SC License G11938

Phone: (704) 865-2479
Fax: 704-868-8408

www.custompavingcompany.com

CONCRETE

30" Curb and Gutter
Standard 4" sidewalks
H/C Ramps with ADA mat
6" Concrete Drives

1031	LF		
5400	SF		
13	EA		
776	SF		

TOTAL	\$	46,323.00
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ASPHALT and STRIPING

Saw Cut Existing Asphalt
10" Asphalt Patch
Traffic Control

1030	LF		
172	SY		
1	LS		

TOTAL	\$	26,170.00
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TOTAL BID:	\$	109,333.00
-------------------	-----------	-------------------

7010 2780 0001 5165 3642

CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Enforcement Required)	
Restricted Delivery Fee (Enforcement Required)	
Total Postage & Fees \$	
Mr. Tim Crow Concrete Works 727 S. Ingleside Farm Road Iron Station, NC 28080	

7010 2780 0001 5165 3642

CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Enforcement Required)	
Restricted Delivery Fee (Enforcement Required)	
Total Postage & Fees \$	
Mr. Randy Peeler Concrete Finishing 1592 Furnace Road Lincolnton, NC 28092	

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Randy Peeler
Concrete Finishing
1592 Furnace Road
Lincolnton, NC 28092

2. Article Number
 (Transfer from service label)

7010 2780 0001 5165 3642

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
 x *Janet Peeler* ☐ Agent ☐ Addressee
- B. Received by (Printed Name)
Janet Peeler
- C. Date of Delivery
10-3-13
- D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type
- | | |
|--|---|
| ☒ Certified Mail | ☐ Express Mail |
| ☐ Registered | ☐ Return Receipt for Merchandise |
| ☐ Insured Mail | ☐ C.O.D. |

4. Restricted Delivery? (Extra Fee) ☐ Yes

Domestic Return Receipt

102595-02-M-1540

ITEM #

10

CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
John L. Cloninger, Mayor Pro-Tem
Devin Rhyne
Carroll Heavner
Larry Mac Hovis



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, CMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

MEMORANDUM

TO: Mayor and City Council Members

FROM: Jeff Emory, City Manager *JE*

SUBJECT: Insurance Settlement

DATE: November 1, 2013

I am pleased with the potential outcome of our insurance claim. This process has been going on for three months, and I would like to especially commend Georgetta Williams for all of her efforts. I also want to thank Richard Haynes and Steve Peeler as well.

The settlement for Council to consider involves a cash payment of \$225,000.00 to the City, and no insurance premium increase for next year related to the claim from the flood. There is a slight increase related to other items, but this would have been there regardless of the flood. We originally asked for approximately \$500,000.00 in damages. The insurance company said it was never their intent to provide coverage in the 100 and 500 year flood plains. In their defense, their original application made this clear. However, when the final policy document was drafted, it was clear coverage was included.

Representatives of the insurance company flew in from Denver, and drove from Virginia to meet with us. They made it very clear it was never their intent to provide coverage. After a lengthy discussion, and our continued position that the final policy was clearly written in a way that we have coverage, they made an offer to settle the claim. In talking with the City Attorney and our insurance consultant everyone agreed that taking the claim to court would not be in anyone's favor. Their initial offer was one that I felt, and the Mayor as well, was not fair to the City. I made this very clear to the insurance company.

The first offer in writing was much better than we expected. They offered \$185,000.00 and no premium increase for this year's renewal. Based on the advice of our consultant, I counter

MEMORANDUM
Insurance Settlement
Page 2

offered \$250,000.00, and they agreed to a \$225,000.00 payment with no increase. I believe this is a fair settlement, and quite frankly am very happy with it.

If City Council accepts this offer, I suggest we take the \$225,000.00 and spend this on the needed repairs to Betty Ross Park. We also received positive news this week that the city may be eligible for funding from FEMA because Lincoln County has been officially declared a disaster area. The repairs that are needed to lift stations and other damages to the Waste Water Treatment Plant, must come from savings from the Water and Sewer Fund.

If anyone has any questions or comments about this issue, please feel free to contact me.

SETTLEMENT AGREEMENT, COVENANT NOT TO SUE, AND RELEASE

This Settlement Agreement, Covenant Not to Sue and Release ("Agreement") is entered into this 28TH day of October 2013, by and between Allied World National Assurance Company (hereafter "AWAC" and as defined in paragraph 1.A below) and the City of Lincolnton (hereafter "Lincolnton", the "City of Lincolnton" and "City", and as defined in paragraph 1.B below). From time to time each is referred to individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, AWAC issued to City a policy of insurance numbered 5101-0009, effective November 15, 2012 to November 15, 2013 (hereafter the "Policy" and as defined in paragraph 1.C of this Agreement);

WHEREAS, City's real and personal property located in and around the City of Lincolnton sustained physical loss or damage on or about July 27, 2013 (hereafter the "Loss Event" and as defined in paragraph 1.D below), for which the City of Lincolnton provided notice to AWAC and sought coverage under the Policy (hereafter "Claims" and as defined in Section 1.E below);

WHEREAS, AWAC and City disagreed as to the scope and amount of coverage afforded by the Policy relative to the Loss Event and the Claims; and

WHEREAS, AWAC and Lincolnton have determined that it is in their best interests to compromise, resolve, settle and release the Claims and all disputes arising out of or related to the Claims, the Policy and the Loss Event.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, AWAC and Lincolnton agree as follows:

1. **Definitions.** For purposes of this Agreement the following definitions shall apply:

A. The terms "AWAC" and "Allied World National Assurance Company" include, without limitation, AWAC, Allied World National Assurance Company, its third party administrator Network Adjusters, Inc., insurance broker American Public Risk (a/k/a Professional Governmental Underwriters, Inc. and P&G Brokers, Inc.), and insurance broker Millennium Insurance Group, their subsidiaries and affiliates as defined in the Policy, their past and present subsidiaries, predecessors, successors, assigns, related companies, officers, directors, principals, employees, agents, attorneys, shareholders, partnerships, partners, trusts, trustees, and representatives.

B. The terms the "City of Lincolnton", the "City" and "Lincolnton" include, without limitation, the City of Lincolnton, its mayor, council, council members, boards, board members, commissions, commission members, departments, department members, citizens, and all other persons and entities that were, are now, or in the future claim to be insured or have rights under the Policy, including but not limited to any and all additional insureds, mortgagees, loss payees, predecessors, successors, assigns, attorneys and any other parties or entities claiming an interest in the Policy or the amount to be paid under Paragraph 2, below, entitled "Settlement Amount", upon the complete execution of this Agreement by the Parties.

C. The term "Policy" means the insurance policy issued by AWAC to Lincolnton, numbered 5101-0009 with effective dates of November 15, 2012 through November 15, 2013 for the Scheduled Locations therein.

D. The term "Loss Event" means and includes all causes and contributions of loss or damage, both direct and indirect, whether by weather, wind, flooding, or other origin, to the City of Lincolnton, which occurred on or about July 27, 2013 in, at, or near the City of Lincolnton at the Insured and Scheduled Locations under the Policy.

E. The term "Claims" includes, without limitation, any and all present and future claims and matters, whether known or unknown, including but not limited to wind or flood or any physical or human action, whether relating to property, earnings or expense, ordinance

or law, debris removal, pollution cleanup, trees or shrubs, inventory, penalties, litigation costs or attorneys' fees under the North Carolina Insurance Code, Chapters 58 and 75 of the North Carolina General Statutes, or any implied covenants, whether subject to notice or not, however arising or characterized, and wherever located or transpiring that relate in any way, directly or indirectly, to the Policy or the Loss Event, and encompasses any and all direct or indirect consequence(s) to Lincolnton and any and all provision(s), section(s), and types of insurance provided by or under the Policy. The Parties intend by this Agreement to fully and finally resolve all matters arising from or relating in any way to the Policy or the Loss Event, leaving no matter open or subject to further claim, discussion or adjustment now or in the future.

2. **Settlement Amount.** Within fourteen (14) days of execution and delivery of the Agreement by all Parties and the City's disclosure of its tax identification number ("Payment Date"), AWAC shall pay to the City \$225,000.00 (two hundred and twenty-five thousand dollars and no cents) (the "Settlement Amount" or "Payment") and such Payment will not be subject to any set-offs, credits, deductions, or deductibles and will represent full and final settlement of all claims and matters related in any way to the Loss Event. In all events, the Parties agree that the City has extinguished now and forever any and all claims, known and unknown, that the City has or may ever have against AWAC, relative to the Loss Event and the Policy.

3. **Covenant Not To Sue AWAC And Release.** Upon payment of the Settlement Amount, the City hereby covenants on behalf of the City of Lincolnton Parties, as defined in Paragraph 1.B above, not to sue any of the AWAC Parties, as defined in Paragraph 1.A above, and to release, acquit and forever discharge the AWAC Parties from any and all claims, duties, obligations, liabilities, causes of action, demands, damages (including punitive and exemplary damages), declarations, rights, costs, penalties, claims for attorney's fees, bad faith and expenses, under the contracts, under the North Carolina Insurance Code, Chapters 58 and 75 of the North Carolina General Statutes, and any implied covenants, appraisal awards, contributions and indemnities whatsoever, in law or in equity, which any of the City Parties ever

had, now have or may hereafter have, against the AWAC Parties, arising out of or related to the Loss Event or the Claims.

4. **Covenant Not To Sue City And Release.** Upon payment of the Settlement Amount, AWAC hereby releases the City Parties and covenants that none of the AWAC Parties will sue any of the City Parties for any and all claims, duties, obligations, liabilities, causes of action, demands, damages (including punitive and exemplary damages), declarations, rights, costs, penalties, claims for attorney's fees, bad faith and expenses, appraisal awards, contributions and indemnities whatsoever, in law or in equity, which any of the AWAC Parties ever had, now have or may hereafter have, against any of the City Parties, for all claims arising out of or related to the Loss Event or the Claims.

5. **Representations of City.**

A. City represents and warrants that the City Parties are the sole and unconditional owners of the claims, rights of action, causes of action and any and all other entitlements relating to the Policy, the Claims and the Loss Event, which are the subject of this Agreement, and that (1) the City Parties have not assigned, pledged, hypothecated or otherwise divested or encumbered all or part of any of these, and (2) no other person or entity has any interest in any of these claims, rights, actions, causes of action or other entitlements that are the subject of this Agreement.

B. City further represents and warrants that it has taken all necessary corporate, legislative, legal and/or other action to duly approve the making and performance of this Agreement and that no further action or approval is necessary.

C. City further represents and warrants that it has the authority to covenant on behalf of the City Parties not-to-sue the AWAC Parties regarding any and all Claims relating to the Loss Event and the Policy, as provided in this Agreement.

D. City further represents and warrants that there are no liens on the settlement amount of any kind, including but not limited to any mortgage, attorney's lien or public adjuster's liens.

E. City agrees to indemnify and hold harmless AWAC for and against all costs, damages, liabilities or other expense (including, without limitation, any attorney's fees) incurred by AWAC if a court of competent jurisdiction determines in a non-appealable, final judgment that any of these representations and warranties are inaccurate or incorrect in any respect, but only if City knew of such inaccuracy or incorrectness at the time they were made, and such inaccuracy or incorrectness caused AWAC actual damage or loss.

6. Representations of AWAC.

A. AWAC represents and warrants that it has taken all necessary corporate, legislative, legal and/or other action to duly approve the making and performance of this Agreement and that no further action or approval is necessary.

B. AWAC further represents and warrants that it has the authority to covenant on behalf of the AWAC Parties not to sue the City Parties as provided in this Agreement.

7. Non-Prejudice/Construction of Agreement. This Agreement is not intended to be construed as an admission of coverage; nor shall it be construed as a waiver, modification or retraction of the positions of the Parties with respect to the interpretation and application of the Policy, or of any the Claims of the City as they relate, directly or indirectly, to the Policy, the Loss Event or the Claims. This Agreement is the product of an informed negotiation and involves compromises of the Parties' previously stated legal positions. This Agreement does not reflect upon the Parties' views as to their rights and obligations under the Policy and is entered into without prejudice to the positions taken by AWAC with regard to its other policyholders. The Parties specifically disavow any intention to create rights in any non-parties under or in relation to this Agreement, except as specifically set forth in this Agreement. The

Parties reaffirm that this Agreement and the negotiations surrounding this Agreement shall not be admissible in any suit, action, or other proceeding, except as shall be necessary to enforce the terms of this Agreement or as may be required by law. Nothing in this Agreement shall be deemed to alter, modify or delete any of the terms or conditions of the Policy for future or other losses, except as stated in the jointly signed attachment entitled: "Agreement As To Coverage".

8. **No Modification.** No change or modification to this Agreement shall be valid unless it is contained in writing and signed by the Parties hereto.

9. **Execution in Counterparts.** This Agreement may be executed in multiple counter-parts and shall be effective when completely executed and delivered by all parties.

10. **Confidentiality Provision.** Neither this Agreement nor any of its terms shall be disclosed to any person or entity without the prior written consent of both Parties, except that (i) the terms of this Agreement may be disclosed to any auditors or reinsurers of any of the Parties provided that such auditor or reinsurer is advised that the disclosures are subject to the confidentiality provisions of this Agreement; and (ii) the terms of this Agreement may be disclosed to any governmental agency if required by any law, rule or regulation, including any SEC filing. Upon the request by any governmental agency for this Agreement or any of its terms, the Party upon whom the request is made must immediately notify the other Party in writing, sent electronically or by facsimile, of the pending request. Upon receipt that a request has been made, the Party receiving the written notice, at its sole discretion, has five business days to attempt to prevent the disclosure of the Agreement by contacting the governmental agency who initiated the request. Should the Party, within five business days of receiving written notice, be unsuccessful in its effort to prevent the disclosure through contacting the governmental agency, the Party, at its sole discretion, may take such protective steps as may be appropriate, and the other Party may disclose the agreement to the governmental agency, with an understanding that the disclosure will be made in accordance with any agreement reached or protective order entered by a court of competent jurisdiction. This Agreement and its

terms may also be disclosed by either party in any action or proceeding to enforce the terms of this Agreement, provided that a Protective Order or Confidentiality Agreement is sought in advance to prevent any further dissemination and disclosure of this Agreement and its terms. Except as provided in this paragraph, if any application is made to any court, or any court order or subpoena or discovery demand of any kind for disclosure of this Agreement or its terms is received by either Party, that Party shall give the other Party immediate notice upon receipt of such application, order or demand, but no such disclosure shall be made before the final date to comply so that the Parties shall have an opportunity to challenge such disclosure. No Party shall issue a press release or make such other similar public disclosure of the terms of this Agreement, except as may be required by law. To the extent a Party's auditors or lawyers advise management that a public disclosure of the fact of settlement is required, the statement shall not state more about the Agreement than that the Party reached a commercial resolution with the other interested Party and what is otherwise legally required. Material protected by this Section shall be deemed to fall within the protection afforded compromises and offers to compromise by Rule 408 of the Federal Rules of Evidence and parallel state provisions.

11. **Notices.** Unless another person is designated in writing for receipt of any notice required hereunder, every notice shall be sent electronically to the Parties with a copy sent by certified mail, postage prepaid, to the persons identified in Appendix A.

12. **Governing Law of Agreement.** This Agreement shall be governed by and shall be construed in accordance with the internal laws of the State of North Carolina without regard to choice of law rules.

13. **Forum Selection.** Any dispute arising between the Parties related to this Agreement, including, without limitation, proceedings to enforce the terms hereof, shall be brought in the State or Federal Court serving Lincolnton, North Carolina.

14. **Integration/Severability.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior

discussions, agreements, and understandings, both written and oral, between the Parties with respect hereto. The parties are informed commercial entities entering into this Agreement with the intent that each of the undertakings is valid and fully enforceable as written. To the extent that any relevant statute, regulation or court decision requires that certain citations, words or phrases appear in the text of this Agreement to make it fully enforceable, the Parties stipulate and agree that those citations, words or phrases shall be deemed to appear in the text of this Agreement. The Parties hereto intend and believe that each provision in this Agreement comports with all applicable local, state and federal laws and judicial decisions. If any provision in this Agreement is, however, found by a court of law to be in violation of any applicable local, state, or federal law, statute, ordinance, administrative or judicial decision, or public policy, or if in any other respect such a court declares any such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all Parties hereto that, consistent with and with a view towards preserving the economic and legal arrangements among the Parties hereto as expressed in this Agreement, such provision shall be given force and effect to the fullest possible extent, and that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void, or unenforceable provision were not contained herein, and that the rights, obligations, and interests of the parties under the remainder of this Agreement shall continue in full force and effect. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement, which are valid, enforceable and legal.

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement, Covenant Not To Sue and Release, containing fifteen pages, to be executed as of the date last set forth below.

APPENDIX A
THE CITY OF LINCOLNTON

By: _____

Print: Jeff Emory

Title: City of Lincolnton Manager

Date: _____

COUNTY OF _____

STATE OF _____

Before me, the undersigned Notary Public of the State and county aforesaid, personally appeared _____, with whom I am personally acquainted (or provide to me a basis of satisfactory evidence) and who, upon oath, acknowledged himself or herself to be the _____ of The City of Lincolnton and that he or she, as such officer, executed the foregoing instrument for the purposes therein contained and with full authority to do so by signing the names of the corporation as officer.

WITNESS my hand and notary seal, at office this _____ day of _____, 2013.

Notary Public: _____

Print: _____

Notarial No.: _____

Commission Expires: _____

ALLIED WORLD NATIONAL ASSURANCE COMPANY

By: _____

Print: __Robert Riccobono__

Title: __Vice President Global TPA
Operations__

Date: _____

COUNTY OF _____

STATE OF _____

Before me, the undersigned Notary Public of the State and county aforesaid, personally appeared _____, with whom I am personally acquainted (or provide to me a basis of satisfactory evidence) and who, upon oath, acknowledged himself or herself to be the _____ of Allied World National Assurance Company and that he or she, as such officer, executed the foregoing instrument for the purposes therein contained and with full authority to do so by signing the names of the corporation as officer.

WITNESS my hand and notary seal, at office this _____ day of _____, 2013.

Notary Public: _____

Print: _____

Notarial No.: _____

Commission Expires: _____

LIST OF PARTIES' NOTICE NAMES/DESIGNATIONS

The City of Lincolnton:

Attention Legal Department

With Copy To:

_____not applicable_____

Allied World National Assurance Company:

_____not applicable_____

With Copy To:

L. Andrew Watson, Esq.
T. Nicholas Goanos, Esq.
Butler Pappas Weihmuller Katz Craig, LLP
11620 N. Community House Road
Charlotte, N.C. 28277
Telephone: 704 543-2321
Facsimile: 704 543-2324
E-mail: awatson@butlerpappas.com
ngoanos@butlerpappas.com

AGREEMENT AS TO COVERAGE

Allied World National Assurance Company and the City of Lincolnton agree, as demonstrated by each Party's respective signatures below, that the Policy, numbered 5101-0009, effective November 15, 2012 to November 15, 2013, and issued by Allied World National Assurance Company to the City of Lincolnton (the "Policy"), shall remain in full force and effect until November 15, 2013, 12:01 a.m. Eastern Standard Time and that in the event of any dispute, disagreement, contradiction or otherwise, this Agreement As To Coverage shall govern and control. It is the Parties' intent by this Agreement to alleviate any question, inconsistency, disagreement, contradiction or otherwise, as to whether or not Allied World National Assurance Company intended to provide and The City of Lincolnton agreed to accept certain insurance coverage for Covered Property located in a Federal Emergency Management Authority ("FEMA") designated flood zone. Allied World National Assurance Company and The City of Lincolnton agree that the Policy shall provide certain flood and surface water coverage, as detailed below but that in any event, such coverage shall not exist if either at the time of the loss occurrence or at any time during the effective dates of the Policy the property at issue is or was located wholly or partially within a Flood Zone designated by the Federal Emergency Management Agency ("FEMA") with the prefix A, V or D, such as but not limited to AE, A1-30, AH, AO, AR, A99, VE or V1-30.

Specifically, the Coverage Extension provided in Policy Form APR PR 00032 00 (03/12) under Section A-Coverage, sub-section 5.Coverage Extensions, paragraph bb, which is entitled "Surface Water", shall now read as follows:

We will pay up to \$25,000 for loss or damage to Covered Property caused by:

- (1) The rapid and unusual accumulation of water on the surface of the ground; or
- (2) Mudslide or mudflow resulting from the rapid and unusual accumulation of water on the surface of ground.

This Coverage Extension does not apply if either at the time of the loss occurrence or at any time during the effective dates of the Policy the property is or was wholly or partially located within a Flood Zone designated by the Federal Emergency Management Agency ("FEMA") with the prefix A, V or D, such as but not limited to AE, A1-30, AH, AO, AR, A99, VE or V1-30.

Allied World National Assurance Company and The City of Lincolnton also agree that Form APR-PR 00040 00 (03/12), entitled Flood Coverage Endorsement—Broad Form, is modified only to the extent that sub-section 2, entitled "Property Not Covered" shall read as stated below, and therefore the Policy shall exclude from all coverage any and all property, whether at the time of the loss event or at any time during the effective dates of the Policy, is or located wholly or partially within a Flood Zone designated by the Federal Emergency Management Agency ("FEMA") with the prefix A, V or D, such as but not limited to AE, A1-30, AH, AO, AR, A99, VE or V1-30:

2. Property Not Covered is any property (other than property in transit) that is located within:

- (x) the "100 year flood plain," as determined by the Federal Emergency Management Agency ("FEMA").

The Parties further covenant and agree that all other terms, conditions, exclusions and provisions in the Policy shall remain unchanged.

THE CITY OF LINCOLNTON

By: _____

Print: ____Jeff Emory____

Title: ____City of Lincolnton Manager____

Date: _____

COUNTY OF _____

STATE OF _____

Before me, the undersigned Notary Public of the State and county aforesaid, personally appeared_____, with whom I am personally acquainted (or provide to me a basis of satisfactory evidence) and who, upon oath, acknowledged himself or herself to be the _____ of The City of Lincolnton and that he or she, as such officer, executed the foregoing instrument for the purposes therein contained and with full authority to do so by signing the names of the corporation as officer.

WITNESS my hand and notary seal, at office this _____ day of _____, 2013.

Notary Public: _____

Print: _____

Notarial No.: _____

Commission Expires: _____

ALLIED WORLD NATIONAL ASSURANCE COMPANY

By: _____

Print: Robert Riccobono

Title: Vice President Global TPA Operations

Date: _____

COUNTY OF _____

STATE OF _____

Before me, the undersigned Notary Public of the State and county aforesaid, personally appeared _____, with whom I am personally acquainted (or provide to me a basis of satisfactory evidence) and who, upon oath, acknowledged himself or herself to be the _____ of Allied World National Assurance Company and that he or she, as such officer, executed the foregoing instrument for the purposes therein contained and with full authority to do so by signing the names of the corporation as officer.

WITNESS my hand and notary seal, at office this _____ day of _____, 2013.

Notary Public: _____

Print: _____

Notarial No.: _____

Commission Expires: _____

ITEM #

11

MEMO TO: Mayor and City Council Members
THROUGH: Jeff Emory
FROM: Laura Simmons
SUBJECT: Potential Changes to Special Event Procedures and Film Policy
DATE: November 7, 2013

Background

The City of Lincolnton typically provides outdoor special events such as parades, festivals and runs with assistance on street closings, set up and take down of street closure equipment, traffic control, garbage removal, security and emergency response. Past special events have all involved non-profit organizations and the city will typically provide at no cost to the event holder a range of services including street closures, traffic control, security, emergency response and garbage and recycling removal. The city's special event application and procedures were developed to ensure that the impacted city departments have advance notice of events so that the necessary personnel and resources can be scheduled.

Over the past few years, the city has also been asked to assist with several professional filming events. Lincolnton, like many other cities throughout North Carolina, is seeing an increase in the number of filming events due at least in part to State filming incentives and the relatively low cost of filming here.

The city's special event application and the established city procedures for handling of special events was not designed for and is not well suited for filming events. A team of city employees has discussed various options for policies and procedures in order to be able to accommodate filming requests in the most efficient way possible.

The enclosed is a preliminary draft of a City of Lincolnton Film Policy that outlines the staff recommendation for how the City should handle filming requests in the future.

Below is a general summary of the recommended City of Lincoln Film Policy:

- A pre-production meeting between the film production company and city staff will be required.
- The production company will be required to complete a film permit application at least 30 days in advance of the film production. In the event the film production involves a request to close a street, a separate street closure application will also be required. If the request involves closure of a state maintained street, the application will also need to be submitted in advance to the North Carolina Film Commission for approval.
- Film activities will be defined as either low impact or high impact. Low impact filming activities involve minimal impact to the area and minimal impact to traffic flow and parking.
- High impact filming activities include the following:
 - Filming events that include street or lane closures or that significantly impact on-street parking,
 - Filming events that involve the use of explosives, pyrotechnics, fire, smoke making machines or similar special effects,
 - Filming in residential areas that occurs after 10 pm and prior to 6 am Monday through Saturday and after 10 pm and prior to noon on Sundays, and
 - Filming in the downtown area during business hours or during the peak holiday shopping season.
- All filming activities will require notification of affected businesses and residents. The production company will be required to notify affected businesses and residents a minimum of ten (10) business days prior to the planned filming activity. The notification process for low impact filming and high impact filming will be identical with the exception that high impact filming will require the signatures of affected residents or business owners on sign – off sheets confirming that the notice has been received.
- Businesses and residents will then have a five (5) business day call-in period to express concerns or objections. The City will coordinate with the production company to attempt to address any concerns or objections during this time. At the end of the call - in period, the City will issue the film permit if all reported concerns and objections are adequately addressed.

- Street or lane closures will need to be accompanied by one or more off-duty police officers or as determined by the police chief. Any costs associated with the closure(s) will be paid by the production company.
- All set up and take down of equipment and garbage removal will be provided by the production company (not the city). In the event the production company wishes to use City personnel or equipment for such services, the City will charge the company for cost recovery. The City could also deny the request for these services.
- A security deposit of \$5,000.00 will be required. The deposit will be refunded after filming ends contingent upon compliance with all standards and payment of any outstanding charges.
- Proof of general liability, automobile liability and worker's comp/ employer's liability insurance will be required.
- The production company will be required to submit a liability waiver as part of the application process.
- News media activities, student filming and charitable film production will be exempt from the film policy.

In the event that City Council approves of the establishment of a film policy as outlined in the attached draft, staff will schedule a public hearing for the December 5 City Council meeting.

Staff has also drafted an outdoor special events policy that outlines the city's current policies and procedures for accommodation of outdoor special events. The policy is intended to assist event holders with advance planning by summarizing the services and operational support the city typically provides to help ensure that events are successful.

The outdoor special events policy outlines the city's current procedures for handling of event requests including traffic and crowd control, emergency response, street closures, solid waste services and electrical and water services. The only change to our current procedure that is included in the policy is the addition of a standard liability disclaimer that the event holder will sign recognizing that the City is not liable for any injuries or losses connected with the special event. Otherwise, the written policy is merely a summary of the services the City currently

offers to assist with outdoor special events and its procedures related to delivery of those services.

Please call me if you have any questions or concerns.



CITY OF LINCOLNTON

FILM POLICY

Section 1. Purpose

The City of Lincolnton recognizes film production as an important economic activity which benefits the community. However, such activity requires regulation to ensure that citizens, property, traffic flow and public safety are protected and the least amount of disruption to the community occurs.

The City has developed this Film Policy to facilitate advance planning, coordinate scheduling and arrange for appropriate city services and operations to serve the film production event in an efficient manner. Toward this end, Film Production Companies are required to secure a Film Permit in advance of any film production activity.

Section 2. Definitions of Terms in this Policy

Terms and expressions used in this policy are defined as follows:

2-1. **News Media.** The photographing, filming or videotaping for the purpose of television news broadcast or reporting for print media by reporters, photographers or camerapersons.

2-2. **Charitable Film Production.** Motion pictures, television programs or video tapes produced by a non-profit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization.

2-3. **Student Film Production.** The photographing, filming or videotaping for educational purposes with a letter from the student's school verifying the student status.

2-4. **Film Production.** All activity attendant to staging or shooting motion pictures, television shows or programs, commercials, videotapes or similar productions. Film production shall be deemed to include all activity attendant to the arrival and set up of base camps, equipment and vehicles and the take down and departure of same.

2-5. **Location Manager.** A representative of the film production organization or the individual in charge of planning and implementing the film production. The person submitting the permit application must be an adult age 18 years or older.

2-6. **Production Company.** The film production organization which is planning and implementing the film production.

2-7. **Film Liaison.** City of Lincolnton staff member who administers the Film Policy and permit application process.

2-8. **Film Permit.** A document issued by the City of Lincolnton upon completion of the application process that officially approves the film production and identifies requirements for appropriate city services and operations and after payment of any required fees.

2-9. City Services. Services provided by the City of Lincolnton in support of special events, including regular and over-time staff hours, regular and over-time equipment hours, supplies and other services.

Section 3. Application of this Policy

This policy shall apply to any film production activities taking place within the Lincolnton city limits, whether on public or private property. Examples of film production activities include, but are not limited to, staging or shooting motion pictures, television shows or programs, videotapes, and commercials.

Note: The following activities are exempt from this film policy:

- a. News media activities
- b. Charitable film production
- c. Student film production

Section 4. Film Permit

4-1. Application Procedure. At the beginning of the film planning process, the Location Manager should contact the Film Liaison to discuss the planned film production and to obtain a copy of the Film Application. Prior to submittal of the application, a pre-production meeting is required between the Film Liaison and the Location Manager. Other agencies may be included in this meeting as needed. A complete listing of all anticipated locations with tentative dates is requested at this time, as the Film Liaison or other agency representatives may know of possible conflicts with City services, local events or other filming activities of which the Location Manager may not be aware.

The Production Company should complete the application with required attachments and return it to the Film Liaison no later than 30 days prior to film production. Applications for film production that include a request for a temporary closure of a state maintained street must be submitted no later than 120 days prior to the film production.

The Film Liaison will review the application for completeness and route the application to the appropriate City staff for acknowledgement of service and operations support for the event and for comment. When all requirements listed on the application have been met, the Film Liaison will issue a Film Permit to the Location Manager for the specific film production activity at the specified times and locations. The City of Lincolnton reserves the right to deny film activities that, in the City's view, pose a threat to public health and safety and/or if determined that the Production Company will be unable to provide adequate services to ensure public health and safety during the activity. The Film Liaison may convene the appropriate City staff to meet with the Location Manager prior to issuing the permit and as needed after the permit is issued to

facilitate coordination of activities and services. In the event that the film production involves multiple locations or dates, separate applications per location per day are required. Multiple locations listed on the same application or illegible applications will not be accepted. Incomplete applications will also not be accepted.

No more than one filming permit will be issued within any neighborhood or business district for any given time or date. The Production Company shall limit the activities at each location to those outlined in the permit and within the time frame specified in the permit. Failure of the Production Company to comply with the guidelines and conditions set forth in each permit or the use of any location not specified in the permit shall give the City of Lincolnton grounds to revoke the permit or take other restrictive actions as necessary.

4-2. Change in Plans. The permit is issued based on the conditions outlined in the permit application. The Location Manager must notify the Film Liaison about any changes in plans, activities and/or service requirements no later than three weeks prior to the event so that accommodations can be made, if feasible. If accommodations for the proposed changes are not feasible, then the Location Manager must follow the arrangements specified in the permit application.

4-3. Permit Amendments. The Film Liaison should document changes in plans in writing as an amendment to the Film Permit and circulate to respective City departments.

Section 5. Low Impact vs High Impact Filming Defined

5-1. Low Impact vs High Impact Filming Activities in Residential Areas. Filming in residential areas is defined as either low impact or high impact. Low impact film activities are defined as those which:

- A. Have a minimal impact on the activities of the neighborhood,
- B. Take place between the hours of 6 am to 10 pm Monday through Saturday and noon to 10 pm on Sunday including the arrival, set up, take down and departure of base camps, equipment and vehicles, and
- C. Have a minimal impact on traffic and pedestrian flow and parking.

High impact filming activities are defined as those which involve extenuating circumstances including, but not limited to, extended hours, displacement of more than 25% of on-street parking in neighborhoods where on-street parking is customary and essential to residents, use of explosives, pyrotechnics, fire, smoke-making machines or similar special effects, extensive set dressing, extensive nighttime lighting, loud noises, gunshots, street closures, and larger than average base camps and/or base camps with larger than average trucks parked on public streets.

5-2. Low Impact vs High Impact Filming Activities in Commercial Areas Outside of Downtown Business District. Filming in commercial areas outside of the Downtown Business District is defined as either low impact or high impact. Low impact film activities are defined as those which:

- A. Have a minimal impact on the activities of the area, and
- B. Have a minimal impact on traffic and pedestrian flow and parking.

High impact filming activities are defined as those which involve extenuating circumstances including, but not limited to, displacement of more than 25% of on-street parking in areas where on-street parking is customary and essential to businesses, use of explosives, pyrotechnics, fire, smoke making machines or similar special effects, extensive set dressing, loud noises, gunshots, street closures and larger than average base camps and/or base camps with larger than average trucks parked on public streets.

5-3. Low Impact vs High Impact Filming Activities in Downtown Business District. The Lincolnton Downtown Business District is defined as the area bounded by Government Street to the west, Pine Street to the north, Water Street to the south and Flint Street to the east. Filming in the Downtown Business District may be defined as either low impact or high impact. Low impact film activities are defined as those which:

- A. Have a minimal impact on the activities of the area,
- B. Take place outside of regular business hours. Since business hours for restaurants may be different from those of service and retail establishments, this determination will be made on a case-by-case basis,
- C. Take place outside of the peak shopping season from Thanksgiving Day to December 31,
- D. Have a minimal impact on parking, vehicular and pedestrian traffic flow and maintain public access to businesses that are open and allow for normal flow of pedestrian and vehicular traffic,
- E. Utilize no more than two on-street parking spaces in any linear block containing businesses or residents dependent upon on-street parking,
- F. Utilize no on-street parking where there are no marked on-street parking spaces,
- G. Utilize no more than 25% of the available sidewalk for filming-related activity and provide a clear path around or through such activity, and
- H. Produce minimal noise between the hours of 10:00 pm to 6:00 am.

High impact filming activities may be defined as those which involve extenuating circumstances including, but not limited to, those which take place during business hours, disrupt traffic flow or parking, occur during the peak shopping season, involve the use of explosives, pyrotechnics, fire, smoke-making machines or similar special effects, extensive set dressing, extensive nighttime lighting, loud noises, gunshots, street closures, and larger than average base camps and/or base camps with larger than average trucks parked on public streets.

5-4. The low vs. high impact determination will be made by the City on a case-by-case basis.

Section 6. Permitting and Notification Procedure for Filming in the City of Lincolnton.

6-1. Notification Process. The Production Company is responsible for notifying all businesses and residents affected by the film production. Notification shall take place following the City's review of the application and no less than ten business days prior to any film production activity. The Production Company must notify affected businesses and residents of the planned activity (including equipment staging areas and base camps). The Film Liaison shall determine the extent of the required notification. Notification shall include a copy of the film permit application and a cover letter from the Production Company and shall include detailed information concerning the location and duration of the filming activities as well as specifics regarding lights, noise, traffic and parking where applicable and contact phone numbers. Maps and other pertinent information may be included as well. The Production Company is responsible for seeing that businesses and residents on upper floors receive the same notification as street-level businesses and residents. The cover letter provided by the Production Company shall provide notice of a five business day call-in period as outlined in Section 6-2 below. Documentation of the required notification is required for further processing of the application.

6-2. Business or Resident Concerns. Businesses and residents within the required notification area shall have a five business day call-in period during which they may contact the Film Liaison to ask any questions or express concerns or objections. The Film Liaison will attempt to address objections and concerns in consultation with the Location Manager.

6-3. Notification Process for High Impact Filming. The notification process for high impact filming as defined in Section 5 above shall follow the same procedure and include the same information as that required for low impact filming. However, proof of notification in the form of signatures on sign off sheets must be obtained from affected businesses and/or residents and submitted to the Film Liaison prior to any further processing of the film application.

6-4. Permit Issuance. At the end of the call - in period, the Film Liaison will issue the film permit if all reported concerns and objections have been adequately addressed.

6-5. Permit Amendments. If the film production activities differ substantially from the film permit application, the Production Company shall re-notify affected businesses and residents in accordance with Sections 6-1, 6-2 and 6-3 above.

6-6. Insufficient Notice. The City of Lincolnton reserves the right to deny or revoke permits where insufficient time has been allowed for proper notification or when the notification process has been improperly applied.

Section 7. Street Closures and Intermittent Traffic Holding

7-1. Street Closures. Production companies who wish to temporarily close a street inside the City limits must also complete a street closure application. Applications for closures of city maintained streets must be submitted a minimum of 30 days prior to the requested closure date. If the request involves closure of a state maintained street, the application would also need to be submitted in advance to the North Carolina Film Commission for approval.

7-2. Traffic Control. Traffic control, if needed, must be handled by off-duty police officers hired by the Production Company or as otherwise approved by the City of Lincolnton Police Department. The City of Lincolnton Police Department reserves the right to determine the number of officers needed.

Section 8. Special Effects, Explosives and Similar Devices

No film activity which involves the use of explosives, pyrotechnics, fire, smoke-making machines or other special effects of a similar nature may be undertaken unless specifically approved by permit from the Lincolnton Fire Department. The City of Lincolnton Fire Department reserves the right to require the presence of off-duty fire personnel during any film activity which involves the use of hazardous materials.

Section 9. Removal of Vegetation

Removal or alteration of vegetation in the public right of way or on City owned lands is prohibited unless specifically approved by the film permit.

Section 10. Clean Up

The production company is fully responsible for clean – up and proper disposal of all waste and materials produced.

Section 11. General Restrictions

The following restrictions and standards apply to film production in the City of Lincolnton:

- A. Clear access must be provided and maintained for all emergency vehicles per the City Fire Code.
- B. Production vehicles and equipment shall not block fire hydrants, driveways, or other access ramps unless authorized by the City and/or affected businesses/residents.

- C. Production vehicles and equipment must be parked in such a way as to not impede safe lines of vision at intersections and comply with all City ordinances regarding on-street parking.
- D. Lighting for filming, both during the day and at night, should not interfere with the safe movement of traffic.
- E. Production companies blocking or holding traffic on streets scheduled for trash/recycling pick up or leaf collection must allow trucks to access those areas for normal pickup.
- F. Production companies are responsible for returning any public rights of way used for filming, base camp, or equipment purposes to their original condition in a timely manner, and for repairing damage to foliage, grass, or public property.
- G. Any filming activity involving holding, delaying or re-routing of traffic may require the presence of one or more off-duty police officers, to be determined by the Lincolnton Police Department.
- H. The City reserves the right to require the presence of one or more off-duty police officers at any filming activity utilizing public property and/or rights-of-way for base camps,
- I. The City reserves the right to require the presence of one or more off-duty fire personnel at any filming activity utilizing hazardous materials.
- J. No parking of vehicles or equipment of any kind in alleys shall be permitted without written permission from the Lincolnton Fire Department and the written consent of affected businesses and residents.
- K. In the event of natural or civil disasters, the City reserves the right to cancel all outstanding film permits on both public and private properties within City limits. Should evacuation of a street, neighborhood, or district be deemed necessary by fire, police, or other emergency authorities, all outstanding permits for that area are null and void. Permits will be re-granted as soon as possible following a safety evaluation by the City.
- L. The City reserves the right to change, modify, update, or waive provisions of these standards where necessary for the public's safety.
- M. The City reserves the rights to cancel filming permits and/or take further restrictive actions where necessary to assure adherence to these standards.

Section 12. Insurance

All film productions are required to maintain liability insurance policies for filming on location within the City. The following minimum policy amounts are required:

General Liability Insurance	\$1,000,000
Automobile Liability	\$1,000,000
Worker's Comp and Employer's Liability	\$1,000,000

While these minimum insurance amounts are required, each filming will be treated on a case by case basis. If the Production Company has "high hazard" events planned, then these amounts may be increased. Examples of high hazard events include, but are not limited to, using a vehicle to jump a railroad track, using a significant amount of explosives or pyrotechnics, or demolition of a building or vehicle. The Film Liaison will determine if insurance amounts need to be increased.

Section 13. Disclaimer of Liability; Indemnity

Every production company to whom a Filming Permit is issued and every person who participates in filming events acknowledges and agrees that the City of Lincoln, its elected officials and employees, shall not be held liable, for any injury, loss, damage, liability or obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of the film production.

Every production company to whom a Filming Permit is issued, as a condition of the issuance of the Filming Permit, agrees to indemnify and hold harmless the City of Lincoln, its elected officials and employees with respect to any and every claim, demand, cause of action, injury, loss, damage, liability and obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of the film production. The City of Lincoln shall require a written acknowledgment of the disclaimer of liability and the indemnity set out herein.

Section 14. Permits, Fees and Deposit

14.1. Required Permits. Some film productions may include activities that require the issuance of one or more permits by the City, as outlined in the City of Lincoln Fee Schedule.

14-2. Off -Duty City Personnel. Some film productions may require the use of off-duty City Police or Fire personnel. Such personnel may be hired directly by the Production Company at an hourly rate of \$30.00 per hour for four hour minimum periods of time.

14-3. Use of City Services or Facilities. Production companies that wish to use City services or facilities will be charged the same fee as other for-profit ventures for the service or facility used. Production companies that wish to use City services for which a fee has not been established will be charged at the discretion of the City on the basis of time, equipment, and materials. The City reserves the right to deny requests for use of City services or facilities.

14-4. Deposit Required. Prior to the granting of any film permits, the City will require production companies to assure their financial responsibility through a \$5,000.00 cash deposit.

Upon completion of filming, the deposit will be returned after the Production Company has paid all outstanding bills owed to the City.



Filming Permit Application

Return to City of Lincolnton Planning Department

Direct Mail: P.O. Box 617, Lincolnton NC 28093 OR Fax: 704-735-1662

Production Company: _____

Name of Film: _____

Contact Person: _____

Office Phone #: _____ Mobile Phone # _____

Fax: _____ Email Address: _____

Type of Filming (check all that apply):

Feature Film _____ TV Movie _____ TV Series _____ Commercial _____ Other _____

Location (name and address): _____

Film Date: _____ Hours: _____

Prep/wrap outside listed time: Yes _____ No _____ (see "Additional Information")

In case of inclement weather or other emergency, alternate date will be: _____

Describe scene: _____

Number in Cast: _____ Number in Crew: _____ Number of Extras: _____

Equipment Parking: _____

Base Camp: _____

Crew Parking: _____

Extras Parking: _____

Extras Holding: _____

Catering (include any vehicle parking): _____

On-Street Parking: _____

Street Closure Requests

Complete Street Closure Application if you are requesting a street closure as part of your filming activity.

Intermittent Traffic Holding Requested? If yes, where (please be as specific as possible)*: _____

*Intermittent traffic holding may only be done in maximum 3 minute intervals

Police Officers: # needed: _____ hours needed: _____ am/pm to _____ am/pm

Police Cars: # needed: _____ hours needed: _____ am/pm to _____ am/pm

Special Equipment and Placement (generators, condors, etc.) _____

Special Effects (stunts, animals, gunfire, noise, etc.): _____

Special Requests (barricades, alteration to City property, etc.): _____

Moving to another location upon completion? Yes _____ No _____

If yes, list location: _____

Additional information (include any prep and wrap activities, times, parking): _____

Use this space for any extra response needed:

FILM PRODUCTION RELEASE AND INDEMNITY AGREEMENT

AGREEMENT TO RELEASE AND INDEMNIFY THE CITY OF LINCOLNTON, NC FOR FILM PRODUCTION

HELD ON _____, 20____ TO BE
BY _____
Entity/permittee

In consideration of the issuance of the film permit by the City of Lincolnton, NC (hereinafter "City") to _____

(hereinafter "Permittee") for the above film production (hereinafter the "production") and other good and valuable consideration, Permittee hereby agrees as follows:

The Permittee shall release, indemnify, keep and save harmless the City, its officers, officials, agents and employees (hereinafter collectively "Releasees") from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether, officers, officials, agents or employees of the City or third persons, and to all property proximately caused by, incident to, resulting from, arising out of or occurring in connection with Permittee's production within the City as may be permitted pursuant a permit (or by any person acting for Permittee or for whom Permittee is or is alleged to be in any way responsible), whether such claim is based in whole or in part on contract, tort (including alleged active or passive negligence or participation in the wrong) or upon an alleged breach of any duty or obligation on the part of Releasees.

The provisions of this agreement shall include any claims for equitable relief or for damages (compensatory or punitive) against the Releasees including alleged injury to the business of any claimant, and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost and expenses. Expenses as used herein shall include without limitation the costs incurred by Releasees in connection with investigating any claim or defending any action, and shall also include reasonable attorney's fees by reason of the assertion of any such claim against Releasees. Permittee expressly understands and agrees that any insurance protection required as a condition to the issuance of the permit herein applied for, or otherwise provided by Permittee, shall in no way limit Permittee's responsibility to release, indemnify, keep and save harmless and defend Releasees as herein provided. Permittee expressly accepts those portions of publicly owned lands or rights-of-way to be used for the event identified in Permittee's application for a permit in their present condition.

The intention of Permittee and the City is that this release and indemnity be incorporated into any permit for the event issued by the City. It is further the intention of the Permittee and the City that this release and indemnity be broadly construed and applied in favor of Releasees, subject to the limitations, if any, set forth in N.C.G.S. § 22B-1.

Signed this _____ day of _____, 20_____.

By: _____

Name of Representative, Title

City of Lincolnton Filming Notification

A film production company has submitted a request for a film permit to the City of Lincoln. You are receiving this notification because your residence or business is near the location at which the production company would like to film. A copy of the application for the film permit is attached to this sheet. Signing below confirms that you received notification of the film request. If you have any questions or concerns regarding this film request, please contact the City of Lincoln at 704-736-8930.

Production Company Name: _____

Name of Film: _____

Requested Date/Time: _____

Requested Location: _____

[illegible]

Approvals-City Official Use Only

Police Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of

Approval: _____

Fees for Services: _____

Fire Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of

Approval: _____

Fees for Services: _____

Public Works and Utilities Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of

Approval: _____

Fees for Services: _____

Parks and Recreation Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of

Approval: _____

Fees for Services: _____

Business and Community Development

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of

Approval: _____

Fees for Services: _____

Total Fees _____

CITY OF LINCOLNTON
STREET CLOSURE REQUEST FORM

Location and description of closure:

Purpose of Closure: _____

Beginning Date of Closure: _____ Ending Date: _____

Daily hours of closure (if applicable): _____

Requesting Company/Organization: _____

Representative: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Mobile : _____

Email address: _____

Terms and Conditions

- Applications for closures of state maintained streets must be submitted a minimum of 120 days prior to the requested closure date.
- Applications for closures of city maintained streets must be submitted a minimum of 30 days prior to the requested closure date.
- A traffic control plan or a sketch of the areas to be closed must be included with the application.
- The applicant is encouraged to notify adjacent businesses and residents a minimum of 7 days prior to the requested closure date.
- Streets are only permitted to close and open according to times listed on the street closure permit.
- Street closures and detours must be approved and coordinated by City of Lincolnton Public Works, Fire and Police in conjunction with NCDOT when applicable.
- The applicant shall be responsible for proper closure of the street, travel lane or parking lane according to the current edition of the Manual on Uniform Traffic Control Devices (MUTCD). The applicant shall be responsible for providing all necessary traffic control devices.
- A fire lane must be maintained throughout all street closures.
- Handicap sidewalk ramps should remain unblocked throughout closure.

By signing below, I understand and agree to the street closure guidelines listed above. I also understand that the Police Supervisor working my event has the final authority on any decision that needs to be made regarding my street closure.

Signature: _____

Date: _____

Submit to:
City of Lincolnton Public Works and Utilities Department
PO Box 617
Lincolnton, NC 28093
Telephone: 704-736-8940/Fax: 704-736-8959



CITY OF LINCOLNTON OUTDOOR SPECIAL EVENTS POLICY

Section 1. Purpose

The City of Lincolnton supports outdoor venues for special events, including festivals, shows, performances and programs as these events contribute to quality of life and promote the community. The City provides general services and operational support for special events to ensure public safety, to create an environment for a well organized special event and to ensure a pleasant experience for participants. Adequate advance planning and coordination are key components to the success and safety of any outdoor special event.

The City of Lincolnton has developed this Outdoor Special Events Policy to facilitate advance planning, coordinate scheduling and arrange for appropriate city services and operations to serve the event in a timely manner. Toward this end, Event Planners are required to secure an Outdoor Special Events Permit in advance of the event date.

Section 2. Definitions of Terms in this Policy

Terms and expressions used in this policy are defined as follows:

2-1. Outdoor Special Event. Any organized formation, procession or assembly consisting of persons and/or vehicles which is assembling or traveling in unison on a public street which does not comply with normal or usual traffic regulations or controls *or* any organized activity conducted by a person or group for a common or collective use, purpose or benefit which involves the use of or has an impact on the provision of City services, resources or personnel.

2-2. Event Planner. A representative of the sponsoring organization or the individual in charge of planning and implementing the special event. The person submitting the permit application must be an adult age 18 years or older.

2-3. Events and Facilities Supervisor. City of Lincolnton Parks and Recreation Department staff member who administers the Outdoor Special Events Policy and permit application process.

2-4. Outdoor Special Events Permit. A document issued by the City of Lincolnton upon completion of the application process that officially schedules the event and identifies requirements for appropriate city services and operations after payment of any required fees.

2-5. City Services. Services provided by the City of Lincolnton in support of special events, including regular and over-time staff hours, supplies and other services.

Section 3. Application of this Policy

This policy shall apply to outdoor events taking place in the public right-of-way or for which the event holder is requesting use of city resources, services or personnel. Examples of outdoor special events include, but are not limited to, festivals, concerts, parades, runs and rallies.

Note: The following activities are exempt from this outdoor special event policy:

- a. Funeral processions,

- b. Group demonstrations or lawful picketing on sidewalks, subject to Chapter 94 of the Lincolnton City Code, and
- c. Sidewalk dining, subject to Chapter 114 of the Lincolnton City Code

Filming activities are covered under the City of Lincolnton Film Policy.

Section 4. Outdoor Special Events Permit

4-1. Application Procedure. At the beginning of the event planning process, the Event Planner should contact the City of Lincolnton Parks and Recreation Department Events and Facilities Supervisor to assess needs for City of Lincolnton services and operational support and to obtain a copy of the Outdoor Special Events Permit Application. *The Event Planner should complete the application with required attachments and return it to the Events and Facilities Supervisor no later than 30 days prior to an event. Applications for special events that include a request for a temporary closure of a state maintained street must be submitted no later than 120 days prior to the event.* The Events and Facilities Supervisor will review the application for completeness and route the application to the appropriate City staff for acknowledgement of service and operations support for the event and for comment. When all requirements listed on the application have been met, the Events and Facilities Supervisor will issue an Outdoor Special Event Permit to the Event Planner for the specific event at the specified times and locations. The City of Lincolnton reserves the right to deny event activities that, in the City's view, pose a threat to public health and safety and/or if determined that the City or Event Holder will be unable to provide adequate services to ensure public health and safety during the event. The Events and Facilities Supervisor may convene the appropriate City staff to meet with the Event Planner prior to issuing the permit and as needed after the permit is issued to facilitate coordination of activities and services.

4-2. Change in Plans. The permit is issued based on the conditions outlined in the permit application. The Event Planner must notify the Events and Facilities Supervisor about any changes in plans, activities and/or service requirements no later than three weeks prior to the event so that accommodations can be made, if feasible. If accommodations for the proposed changes are not feasible, then the Event Planner must follow the arrangements specified in the permit application.

4-3. Permit Amendments. The Events and Facilities Supervisor should document changes in plans in writing as an amendment to the Special Events Permit and circulate to respective City departments.

Section 5. Locations for Outdoor Special Events

5-1. Events Located Within Right-of-Way. Many outdoor special events involve a temporary street closure. If the special event involves the temporary closure of a public street, the event holder will need approval from the City. If the special event involves the closure of a state maintained street, the event holder will also need approval from the North Carolina Department of Transportation. As a result, applications for special events that involve a request to

temporarily close a state maintained street must be submitted a minimum of 120 days prior to the event.

5-2. Pre-Designated Routes for Organized Runs or Races. The City of Lincolnton Parks and Recreation Department has several pre-designated routes available for organized runs or races. Run or race event organizers are encouraged to utilize one of these pre-designated routes.

5-3. City Facilities Event holders may also consider use of the following City of Lincolnton public facilities that are available for outdoor special events subject to approval by the Parks and Recreation Department:

- a) Betty G. Ross Park,
- b) Highland Drive Park, and
- c) City Park

Section 6. Charges and Fees

6-1. Schedule of Fees. The City may collect fees for one or more of the activities included with the special event, as outlined by the City of Lincolnton Fee Schedule. Fees may also be charged by agencies other than the City of Lincolnton for required permits and/or services. It is the Event Planner's responsibility to identify and pay such fees.

6-2. Payment of Fees. Payment of any required fees is due to the City prior to receipt of the outdoor special event permit.

Section 7. Rules, Regulations and Requirements for Special Events

7-1. Availability/Visibility of Event Planner Prior to and During the Event. During setup and the event itself, the Event Planner or a designee must be on site at all times. The Event Planner should be prepared to handle questions and problems regarding the event, such as resolving disputes among vendors, rain delays and coordination of City services.

7-2. Care of Public Property. The Event Planner shall ensure that public property is protected from damage other than normal wear and tear, including, but not limited to, vandalism; damage to grass, shrubbery or trees; damage to monuments, benches or other amenities; damage to utilities and damage to asphalt in streets and parking lots.

7-3. Removal of Publicity Items. The Event Planner is responsible for removal of any flyers, banners, posters and/or temporary signs placed in public areas to publicize the event immediately following the end of the event.

7-4. No Posting on Poles or Regulatory Signs. In accordance with City of Lincolnton regulations, event signs are not allowed to be attached to electric utility poles or to regulatory signs.

7-5. Permits From Other Agencies. The Event Planner is responsible for securing any other required permits, permissions or services from agencies other than the City of Lincolnton that may have jurisdiction over activities at the special event.

7-6. Insurance. Use of materials that may create a fire hazard requires a Certificate of Insurance covering such usage. Insurance coverage must name the City of Lincolnton as an additional insured.

7-7. Fire Prevention. Event activities must comply with the City of Lincolnton and the North Carolina State Fire Code as administered by the City Fire Marshal.

7-8. Waste Disposal. It is unlawful to dispose of solid and/or liquid wastes in rivers, creeks, drainage ways, storm sewers, streets, parking lots or park areas. It is the responsibility of the sponsoring organization to arrange for proper disposal of grease and/or hazardous materials generated at the special event.

Section 8. Provision of City of Lincolnton Services and Operational Support to Event

With proper advance notification as offered through the Outdoor Special Events Permit process, the City of Lincolnton can provide the following services and operational support to special events:

8-1. Public Safety. Routine police and fire services are provided by the City of Lincolnton. The Police and Fire Departments will assess the need for traffic and/or crowd control and emergency response in advance based on information provided on the Outdoor Special Events Permit Application and/or interviews with the event coordinator. During event set up, implementation and follow-up, public safety officials may open or close areas or take other actions that may impact the event in order to preserve public safety. The City of Lincolnton reserves the right to suspend an activity or activities if circumstances pose a threat to public health and safety and/or to public or private property. Police and fire personnel stationed on location at the event by the City are subject to being called away for emergencies in other areas of the City. The City of Lincolnton Police and Fire Departments reserve the right to determine the number of on duty and/or off duty public safety personnel needed to safely accommodate the event. In the event that the City determines that off duty public safety personnel are required in order to safely accommodate the special event, hourly charges may apply for the off-duty personnel as determined by the City Police and Fire Departments.

8-2. Street closings. The City can provide barrels, cones, and/or barricades for blocking of streets when requested in accordance with the required deadlines prior to the event. The Event Planner may be required to set up barrels, cones and/or barricades that the City has delivered to the event venue. Any outdoor special event request that includes a request to temporarily close a state maintained street requires the approval of the NC Department of Transportation and submittal of the application a minimum of 120 days in advance of the event.

8-3. **Solid waste services.** Upon request, the City may provide delivery of temporary garbage and/or recycling containers to the event location prior to the event. The Event Planner may need to place the containers in the desired location. The City will remove temporary containers at the conclusion of the event and may require that the Event Planner consolidate containers into a single location.

8-4. **Electrical and water services.** Upon request, the City may provide electrical and water connections for the event.

8-5. **City Fencing and Stage.** Upon request, the City may provide delivery and set up of fencing materials in order to cordon off a portion of the event area and/or a raised platform/stage.

8-7. **Publicity resources.** While it is the responsibility of the Event Planner and/or sponsoring organization to notify the public about the event, the City may be able to assist with event publicity through the LINCINFO system, the City's community calendar listings, the City's web site and/or the Police Department outdoor sign.

Section 9. General Restrictions

9-1. **Natural or civil disasters.** In the event of natural or civil disasters, the City reserves the right to cancel all outstanding outdoor special event permits within the City limits. Should evacuation of a street or neighborhood be deemed necessary by fire, police, or other emergency authorities, all outstanding permits for that area are null and void. Permits will be re-granted as soon as possible following a safety evaluation by the City.

9-2. **Public Safety.** The City reserves the right to change, modify, update, or waive provisions of these policies where necessary for the public's safety.

9-3. **Permit Cancellation or Restriction.** The City reserves the rights to cancel outdoor special event permits and/or take further restrictive actions where necessary to assure adherence to these standards.

Section 10. Disclaimer of Liability; Indemnity

Every person and/or organization to whom an Outdoor Special Events Permit is issued and every person who attends an Outdoor Special Event acknowledges and agrees that the City of Lincolnton, its elected officials and employees, shall not be held liable for any injury, loss, damage, liability or obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of an Outdoor Special Event.

Every person and/or organization to whom an Outdoor Special Events Permit is issued, as a condition of the issuance of the Outdoor Special Events Permit, agrees to indemnify and hold

harmless the City of Lincolnton, its elected officials and employees with respect to any and every claim, demand, cause of action, injury, loss, damage, liability and obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of the Outdoor Special Event.

Section 10. Permits and Fees

10.1. Required Permits. Some special events may include activities that require the issuance of one or more permits by the City, as outlined in the City of Lincolnton Fee Schedule.

10-2. Off -Duty City Personnel. Some special events may require the use of off-duty City Police or Fire personnel. Such personnel may be hired directly by the Event Planner at an hourly rate of \$30.00 per hour for four hour minimum periods of time.

Special Event Permit Application

Important Information



- ✓ Applications must be turned in 30 days prior to the event. Any street closures on State maintained roads, require written approval from NCDOT prior to the date(s) of the event and must be submitted a minimum of 120 days prior to the event.
- ✓ There is a limit of 2 events per day that require city personnel or street blocking.
- ✓ This application is also applicable to all city departments
- ✓ Applicants must abide by local ordinances and state/federal laws
- ✓ For profit events may be required to pay for assisting city personnel, including police officers assigned to work the event.
- ✓ All applicants will be held accountable for trash clean up after each event.
- ✓ If any cooking, food heating devices, or portable sanitary units will be used at this event, you will need to contact the Lincoln County Health Department and the Lincolnton Fire Department
- ✓ The special event permit must be approved by all departments involved with the event
- ✓ No changes will be made without prior approval
- ✓ The Permit *may be revoked* by the City of Lincolnton for the applicant's failure to comply with terms and conditions stated on the application



City of Lincolnton

114 W Sycamore Street
Lincolnton, North Carolina 28092
(704) 736-8980 * Fax (704) 736-8995

JEFF EMORY
City Manager

Office Use Only

Special Event Application

1. Name of Event:			
2. Name of Agency/Organization:			
3. Non-Profit 501.C3 Tax ID #:			
4. Date(s): Day(s) of Week:		5. Time Start: End:	
6. Type of Event ☐ Public Gathering ☐ Private Gathering ☐ Parade ☐ Walk or Run ☐ Religious ☐ Other Please add this event to the community calendar listings: ☐ Yes ☐ No Please add this event to the Police Department's outdoor sign: (limited to 3 lines, priority given to soonest events) ☐ Yes ☐ No			
7. Location:			
8. Brief description of the event:			

9. Description of assistance requested from Lincolnton City Departments:	
Police:	
Fire:	
Streets:	
Sanitation:	
Parks:	
Electric:	
Water/Sewer:	

10. Set-Up	11. Take Down	12. Estimated Attendance	
Date:	Date:	Participants:	Spectators:
Day of Week:	Day of Week:		
Time:	Time:		

13. Primary Contact Person	14. Secondary Contact Person
Name:	Name:
Daytime Phone: ☐ Cell Phone	Daytime Phone: ☐ Cell Phone
Evening Phone: ☐ Cell Phone	Evening Phone: ☐ Cell Phone
Address:	Address:
City/State/Zip:	City/State/Zip:
E-mail:	E-mail:

Please answer the following questions completely in order to have your application properly processed:

14. Will there be amplified sound, loud speakers, music, etc. causing a potential noise concern? ☐ Yes ☐ No If yes, please specify:			
15. a.	Are electrical outlets required for this event?	☐ Yes	☐ No
b.	Will this event be using a sound system?	☐ Yes	☐ No
16.	Will tents, canopies, tension-membrane structures, trailers, inflatable/air supported devices, fencing, scaffolding, etc. be involved in this event?	☐ Yes	☐ No
	If so, please describe the types, sizes and quantity used:		
17.	Will this event require trashcans <u>and/or recycling containers</u> ?	☐ Yes	☐ No
The City of Lincolnton Public Works Department will review this application to see if they can meet your needs. If they can meet your needs, how many trashcans/<u>recycling containers</u> do you anticipate needing? ** You will be responsible for cleaning any trash accumulated by this event			

18. Will alcohol be provided, served, or sold at this event?

☐ Yes ☐ No

If yes, please specify:

***** Only those organizations issued a valid ABC permit may provide alcohol.
This permit must be provided by the ABC Commission in advance of this event.***

ABC Permit Number:

19. Do you request security from the Lincolnton Police Department?

☐ Yes ☐ No

20. Will this event impede the flow of traffic or require that streets be blocked?

☐ Yes ☐ No

If yes, submit a completed street closure application for this event.

21. Will there be vehicles in this event?

☐ Yes ☐ No

If yes, how many?

Types of vehicles (cars, trucks, tractors, floats, bicycles, etc)

22. Will there be any cooking, food heating devices, etc. used for this event?

☐ Yes ☐ No

If yes, please specify:

*****The Lincoln County Health Department and Lincolnton Fire Department must be contacted if these items will be used. Any permit issued by either of these departments must be submitted with this application.***

23. Will there be any materials used, handled, accumulated, stored, or displayed that may create a fire hazard, including but not limited to open flames, fireworks, pyrotechnics, vehicle fuel, cooking fuel, hay, decorations, combustible trash, etc.

☐ Yes ☐ No

If yes, please specify:

*****You must provide a copy of an issued insurance policy covering the use of the above listed materials.***

24. Will admission be charged and/or will there be booths/vendors selling items/services?

☐ Yes ☐ No

25. Will you have a first aid station?

☐ Yes ☐ No

26. Will animals be used in this event?

☐ Yes ☐ No

If yes, please specify:

***** No animals are allowed at events unless being used in the event as specified above. Animals brought by spectators/ participants as companions are not allowed.***

27. Will children under the age of 18 be involved in this event?

☐ Yes ☐ No

28. Where is the exact location of the event and/or assembly area?

29. Where is the disassembly area?

30. Is this event covered by liability insurance?

☐

Yes

☐

No

If yes, submit a copy of the policy with this application.

☐

Copy of policy attached

***** The City of Lincolnton is not responsible for providing liability insurance for this event.***

31. Indicate the exact route of this event.

Draw a map below indicating the staging, ending point, streets traveled. Use an additional sheet if necessary. When submitting this form electronically, please also submit an area photo or map in .jpeg or .pdf format.

Printed name /signature of individual applying for permit

Date

Special Event Permit Application

Important Information



- ✓ Applications must be turned in 30 days prior to the event. Any street closures on State maintained roads, require written approval from NCDOT prior to the date(s) of the event and must be submitted a minimum of 120 days prior to the event.
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- ✓ This application is also applicable to all city departments
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- ✓ For profit events may be required to pay for assisting city personnel, including police officers assigned to work the event.
- ✓ All applicants will be held accountable for trash clean up after each event.
- ✓ If any cooking, food heating devices, or portable sanitary units will be used at this event, you will need to contact the Lincoln County Health Department and the Lincolnton Fire Department
- ✓ The special event permit must be approved by all departments involved with the event
- ✓ No changes will be made without prior approval
- ✓ The Permit *may be revoked* by the City of Lincolnton for the applicant's failure to comply with terms and conditions stated on the application



City of Lincolnton

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JEFF EMORY
City Manager

Office Use Only

Special Event Application

1. Name of Event:			
2. Name of Agency/Organization:			
3. Non-Profit 501.C3 Tax ID #:			
4. Date(s): Day(s) of Week:		5. Time Start: End:	
6. Type of Event ☐ Public Gathering ☐ Private Gathering ☐ Parade ☐ Walk or Run ☐ Religious ☐ Other Please add this event to the community calendar listings: ☐ Yes ☐ No Please add this event to the Police Department's outdoor sign: (limited to 3 lines, priority given to soonest events) ☐ Yes ☐ No			
7. Location:			
8. Brief description of the event:			

9. Description of assistance requested from Lincolnton City Departments:	
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Fire:	
Streets:	
Sanitation:	
Parks:	
Electric:	
Water/Sewer:	

10. Set-Up	11. Take Down	12. Estimated Attendance	
Date:	Date:	Participants:	Spectators:
Day of Week:	Day of Week:		
Time:	Time:		

13. Primary Contact Person	14. Secondary Contact Person
Name:	Name:
Daytime Phone: ☐ Cell Phone	Daytime Phone: ☐ Cell Phone
Evening Phone: ☐ Cell Phone	Evening Phone: ☐ Cell Phone
Address:	Address:
City/State/Zip:	City/State/Zip:
E-mail:	E-mail:

Please answer the following questions completely in order to have your application properly processed:

14. Will there be amplified sound, loud speakers, music, etc. causing a potential noise concern?

☐ Yes ☐ No If yes, please specify:

15. a. Are electrical outlets required for this event? ☐ Yes ☐ No

b. Will this event be using a sound system? ☐ Yes ☐ No

16. Will tents, canopies, tension-membrane structures, trailers, inflatable/air supported devices, fencing, scaffolding, etc. be involved in this event? ☐ Yes ☐ No

If so, please describe the types, sizes and quantity used:

17. Will this event require trashcans and/or recycling containers? ☐ Yes ☐ No

The City of Lincolnton Public Works Department will review this application to see if they can meet your needs. If they can meet your needs, how many trashcans/recycling containers do you anticipate needing?

**** You will be responsible for cleaning any trash accumulated by this event**

18. Will alcohol be provided, served, or sold at this event?

☐ Yes

☐ No

If yes, please specify:

***** Only those organizations issued a valid ABC permit may provide alcohol.
This permit must be provided by the ABC Commission in advance of this event.***

ABC Permit Number:

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☐ Yes

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If yes, submit a completed street closure application for this event.

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☐ Yes

☐ No

If yes, how many?

Types of vehicles (cars, trucks, tractors, floats, bicycles, etc)

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☐ Yes

☐ No

If yes, please specify:

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☐ Yes

☐ No

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☐ Yes

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26. Will animals be used in this event?

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If yes, please specify:

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27. Will children under the age of 18 be involved in this event?

☐ Yes

☐ No

28. Where is the exact location of the event and/or assembly area?

29. Where is the disassembly area?

30. Is this event covered by liability insurance?

☐ Yes ☐ No

If yes, submit a copy of the policy with this application.

☐ Copy of policy attached

***** The City of Lincolnton is not responsible for providing liability insurance for this event.***

31. Indicate the exact route of this event.

Draw a map below indicating the staging, ending point, streets traveled. Use an additional sheet if necessary. When submitting this form electronically, please also submit an area photo or map in .jpeg or .pdf format.

Printed name /signature of individual applying for permit

Date

OUTDOOR SPECIAL EVENT RELEASE AND INDEMNITY AGREEMENT

AGREEMENT TO RELEASE AND INDEMNIFY THE CITY OF LINCOLNTON, NC FOR OUTDOOR SPECIAL EVENT

_____ TO BE
HELD ON _____, 20_____

BY _____
Entity/permittee

In consideration of the issuance of the outdoor special event permit by the City of Lincolnton, NC (hereinafter "City") to _____ (hereinafter "Permittee") for the above event (hereinafter the "event") and other good and valuable consideration, Permittee hereby agrees as follows:

The Permittee shall release, indemnify, keep and save harmless the City, its officers, officials, agents and employees (hereinafter collectively "Releasees") from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether, officers, officials, agents or employees of the City or third persons, and to all property proximately caused by, incident to, resulting from, arising out of or occurring in connection with Permittee's use or occupancy of trails, sidewalks, rights-of-way and/or pedestrian ways or alternative routes located within the City as may be permitted pursuant a permit (or by any person acting for Permittee or for whom Permittee is or is alleged to be in any way responsible), whether such claim is based in whole or in part on contract, tort (including alleged active or passive negligence or participation in the wrong) or upon an alleged breach of any duty or obligation on the part of Releasees.

The provisions of this agreement shall include any claims for equitable relief or for damages (compensatory or punitive) against the Releasees including alleged injury to the business of any claimant, and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost and expenses. Expenses as used herein shall include without limitation the costs incurred by Releasees in connection with investigating any claim or defending any action, and shall also include reasonable attorney's fees by reason of the assertion of any such claim against Releasees. Permittee expressly understands and agrees that any insurance protection required as a condition to the issuance of the permit herein applied for, or otherwise provided by Permittee, shall in no way limit Permittee's responsibility to release, indemnify, keep and save harmless and defend Releasees as herein provided. Permittee expressly accepts those portions of trails, sidewalks, rights-of-way and/or pedestrian ways to be used for the event identified in Permittee's application for a permit and any alternative route used in their present condition.

The intention of Permittee and the City is that this release and indemnity be incorporated into any permit for the event issued by the City. It is further the intention of the Permittee and the City that this release and indemnity be broadly construed and applied in favor of Releasees, subject to the limitations, if any, set forth in N.C.G.S. § 22B-1.

Signed this _____ day of _____, 20_____.

By: _____
Name of Representative, Title

Approvals-Official Use Only

City Department

Police Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of Approval: _____

Fees for Services: _____

Fire Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of Approval: _____

Fees for Services: _____

Public Works and Utilities Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of Approval: _____

Fees for Services: _____

Parks and Recreation Department

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of Approval: _____

Fees for Services: _____

Business and Community Development

Official Name: _____

Approved: Yes _____ No _____ Not Applicable _____

Conditions of Approval: _____

Fees for Services: _____

Total Fees _____

MEMO TO: Mayor and City Council Members

THROUGH: Jeff Emory

FROM: Laura Simmons

SUBJECT: Status Update on Potential Project to Improve Intersection of East Main Street and Generals Boulevard

DATE: November 7, 2013

At the October City Council meeting, Council received an update from Leonard Fletcher of TGS Engineers regarding the potential intersection improvement project at East Main Street and Generals Boulevard. You may recall that Mr. Fletcher provided a summary of his preliminary engineering design plan and cost estimate work. Mr. Fletcher indicated at the October meeting that he needed additional time to work with Mike Holder, the Division 12 Engineer, to work on several outstanding issues. Mr. Fletcher indicated at that time that he would come back at the November meeting with additional information. However, Mr. Holder has not been available to meet yet so Mr. Fletcher will not attend the November meeting. Once Mr. Fletcher and Mr. Holder have been able to meet to work on the outstanding issues, Mr. Fletcher will be in a position to provide us with additional information and details.

Mr. Holder and Mr. Fletcher are currently discussing the possibility of a City/State partnership on the project in which the City and the State pool their resources to allow for a better project that works for both the City and the State. The discussions to date have focused on the City contribution being the 20% local match for the FHWA grant funding and the State contribution being the funding necessary for an entire repave of the intersection, construction inspection and oversight and project administration. Mr. Holder and Mr. Fletcher are working towards an agreement on an improvement project that accomplishes not only the City's initial goals for the project but also a complete repave of the intersection, an additional southbound left turn lane on Generals Boulevard

providing for increased capacity and better traffic flow at the intersection and installation of medians for safety reasons.

The City's 20 % local match would be \$116,250.00 and recently adopted State legislation allows use of State Powell Bill funds for the match.

Many details still need to be discussed and finalized and any conceptual agreement between Mr. Holder and Mr. Fletcher would be subject to City Council approval prior to any formal agreement.

Please contact me if you have any questions or concerns.

ITEM #

12

MEMO TO: Mayor and City Council Members

THROUGH: Jeff Emory

FROM: Laura Simmons

SUBJECT: Status Update on Potential Project to Improve Intersection of East Main Street and Generals Boulevard

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PCL XL error

Subsystem: IMAGE
Error: MissingData
Operator: ReadImage
Position: 1083

ITEM #

13

November 2013 Council Meeting

Executive Summary
September 2013 Year-To-Date

Comparative for Budgetary Purposes - Prior to Closing 2013 Fiscal Year

		13-14	% of Budget	12-13	Difference
General Fund					
Fund 10	Revenues	3,161,230.72	28.93%	3,508,178.25	(346,947.53)
	Expenses	2,495,475.53	26.62%	2,497,420.88	(1,945.35)
	Difference	665,755.19		1,010,757.37	(345,002.18)
Water & Sewer Fund					
Fund 61	Revenues	2,048,669.68	23.49%	2,226,901.36	(178,231.68)
	Expenses	861,964.27	16.17%	880,013.04	(18,048.77)
	Difference	1,186,705.41		1,346,888.32	(160,182.91)
Electric Fund					
Fund 63	Revenues	1,891,117.24	24.04%	1,878,657.32	12,459.92
	Expenses	1,498,952.56	28.38%	1,501,182.27	(2,229.71)
	Difference	392,164.68		377,475.05	14,689.63
Overtime		70,382.65		51,508.42	18,874.23

Note: Apple Festival event in September will be on October (10-1-13) Payday.

**CLOSED
SESSION**