

**MINUTES OF THE SPECIAL MEETING OF THE LAKE LURE TOWN COUNCIL  
HELD THURSDAY, AUGUST 23, 2012, 12:00 P.M. AT 1927 LAKE LURE INN**

**PRESENT:** Mayor Bob Keith  
Commissioner John W. Moore  
Commissioner Mary Ann Silvey  
Commissioner Bob Cameron  
Commissioner Diane Barrett

Christopher Braund, Town Manager  
J. Christopher Callahan, Town Attorney

**ABSENT:** N/A

**CALL TO ORDER**

Mayor Bob Keith called the meeting to order at 12:05 p.m.

**INVOCATION**

Attorney Chris Callahan gave the invocation.

**APPROVE THE AGENDA**

Commissioner Diane Barrett made a motion to approve the agenda as presented.  
Commissioner Bob Cameron seconded the motion and the vote of approval was unanimous.

**PUBLIC HEARING PROPOSED RESOLUTION NO. 12-08-23 AUTHORIZING A  
LEASE AGREEMENT BETWEEN THE TOWN OF LAKE LURE AND THE  
RUTHERFORD COUNTY TOURISM DEVELOPMENT AUTHORITY TO OPERATE  
THE HICKOEY NUT GORGE VISITOR CENTER**

Mayor Bob Keith opened the public hearing regarding proposed Resolution No. 12-08-23  
and invited citizens to speak during the public hearing.

No one requested to speak.

Council members agreed to close the public hearing.

**CONSIDER ADOPTION OF RESOLUTION NO. 12-08-23 AUTHORIZING A LEASE  
AGREEMENT BETWEEN THE TOWN OF LAKE LURE AND THE RUTHERFORD**

**COUNTY TOURISM DEVELOPMENT AUTHORITY TO OPERATE THE HICKORY NUT GORGE VISITOR CENTER**

Public notices were duly published in the Daily Courier newspaper.

Town Manager Chris Braund gave background information and a brief overview of proposed Resolution No. 12-08-23.

Commissioner Bob Cameron requested that, when possible, the TDA Board use local contractors for renovating the visitor center building.

After discussion, Commissioner Bob Cameron made a motion to adopt Resolution No. 12-08-23 authorizing a lease agreement between the Town of Lake Lure and the Rutherford County Tourism Development Authority to operate the Hickory Nut Gorge Visitor Center as presented. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

**RESOLUTION 12-08-23**

**WHEREAS**, the Town of Lake Lure, the HNG Chamber of Commerce and the Rutherford County Tourism Development Authority (TDA) are all in agreement that the area's tourism industry will be best served by inviting the TDA to manage the operation of the Hickory Nut Gorge Visitor Center in its current location (a town-owned building;) AND

**WHEREAS**, this center was originated by and managed for over 25 years by the HNG Chamber of Commerce. Community volunteers have been the lifeblood of our visitor center and we expect that this not change under TDA leadership; AND

**WHEREAS**, the TDA will operate the center with a focus on serving the needs of our visiting tourists and in accordance with the visitor center mission and vision statements; AND

**WHEREAS**, in consideration for the Town to provide a long-term lease of the building and assistance with utilities, the TDA proposes to invest over \$100,000 in the interior and exterior renovation of the building and in interior displays; AND

**WHEREAS**, the Town of Lake Lure expects the following benefits from this lease arrangement:

- Full-time administration and staffing of a visitor center to support tourists and the tourism industry in the gorge
- Renovation, enhancement and an expansion of the current visitor center to utilize the entire building.
- Project and vendor management for the renovation.
- Improvement of public restroom facilities, including access during events and festivals.

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- Establishment of a full-time TDA presence in the gorge, a needed customer service position in close proximity to the majority of the TDA lodging tax collectors; AND

**WHEREAS**, this lease arrangement is also expected to benefit the Hickory Nut Gorge Chamber of Commerce and local business by providing the following:

- Relief from the administrative and cost burdens of operating the visitor center.
- Freedom and flexibility to focus on other Chamber initiatives (e.g., business support services, business and resident recruiting, special events.)
- Formalized opportunities to provide feedback and ideas to the visitor center operating team.

**STATE OF NORTH CAROLINA  
COUNTY OF RUTHERFORD**

**LEASE AND AGREEMENT**  
With  
**The Rutherford County Tourism Development  
Authority**

THIS LEASE AGREEMENT (the “Lease”), made and entered into as of the 1st day of August, 2012 by and between the TOWN OF LAKE LURE, a municipal corporation, party of the first part, “Landlord”, (hereinafter also referred to as the “Town”); and the RUTHERFORD COUNTY TOURISM DEVELOPMENT AUTHORITY, party of the second party, “Tenant” (hereinafter also referred to as the “TDA”).

**WITNESSETH**

Whereas, the Town is a municipal corporation established under the laws of the State of North Carolina; and TDA is a political subdivision of the State of North Carolina charged with developing tourism throughout Rutherford County, including in and for the Town of Lake Lure; and

Whereas, TDA, in fulfilling its mission to promote the growth of tourism for and in Rutherford County in accordance with N.C. Session Law 2011-115, desires to operate a facility, located in the Town, for the express purposes of: providing a location for TDA to fulfill this mission and for such other related purposes as TDA feels is in the best interest of fulfilling this mission (the “Visitor Center”); and

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Whereas, the Town agrees with this goal of developing tourism and desires to lease space to TDA for the purpose of TDA operating such a Visitor Center; and

NOW, THEREFORE, for and in consideration of their mutual covenants, the Town hereby leases to the TDA, and the TDA hereby leases from the Town, the building commonly known as the Community Center, situated at 2932 Memorial Highway, Lake Lure, NC 28746 (hereinafter the "Premises"), for the express purpose of operating a Visitor Center and an office for TDA, upon the terms, conditions and covenants as set forth herein:

### **SECTION ONE TERM OF LEASE**

This Lease is for a term commencing on August 1, 2012, and ending on June 30, 2017, unless sooner terminated as hereinafter provided (the "Term"). If the Visitor Center remains closed and unavailable to the public for a period of thirty (30) consecutive days, then the Landlord shall send written notice to the TDA, as provided hereinbelow, of the breach, upon receipt of which the TDA shall have sixty (60) days to cure the breach by opening the Visitor Center on the Premises (the "Cure Period"). If the TDA fails to open the Visitor Center during the Cure Period, then this Lease shall terminate thirty (30) days after the Cure Period.

### **SECTION TWO RENT**

Beginning on the first day of the Term and then on the first day of July of each year subsequent, the TDA will be obligated to pay to the Town annual rent in the amount of \$1.00 (one dollar and zero cents). In the event TDA fails to pay the rent as provided herein, the Town shall send Notice of the breach to TDA as provided hereinbelow, and TDA shall have thirty (30) days to pay said rent. Should TDA continue to be in breach of this provision after the thirty (30) days have expired, then this Lease shall be considered terminated and the Town may send notice to vacate the Premises to TDA at any time in its sole and complete discretion.

### **SECTION THREE OPTION TO RENEW**

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The Tenant and Town shall have the option to renew this lease agreement for one (1) additional term of five (5) years (the “Option”), for a total potential term of this Lease of ten (10) years. The Option will be deemed exercised automatically unless either party delivers written notice as provided hereinbelow to the other party of its decision not to exercise or agree to the Option. This decision not to agree to the Option shall be sent to the other party no later than ninety (90) days prior to the termination of the original Term. If either party is in breach of this Lease at this time, then that party may not object to the other party’s decision to exercise the Option. Either party, so long as that party is not in breach of this Lease, has the right to elect to not exercise the Option as provided herein, with or without cause.

### **SECTION FOUR OPERATION OF THE VISITOR CENTER**

(a) TDA agrees to operate the Visitor Center in accordance with the Visitor Center Mission and Vision Statements, which are as follows:

#### *Mission & Purpose*

*The mission of the Hickory Nut Gorge Visitor Center is to accommodate the needs of our visitors in cooperation with surrounding communities by:*

- *promoting the area*
- *showcasing our history and heritage*
- *highlighting our family-oriented destinations*
- *sharing our welcoming spirit*

#### *Vision Statement*

*The Hickory Nut Gorge Visitor Center is an attractive and engaging destination that provides information regarding attractions, accommodations, restaurants and other things to see and do. This fosters overnight stays, encourages return visits and invites potential residents. As a result, social, cultural and economic vitality is enhanced not only in the Hickory Nut Gorge, but also throughout Rutherford County and the region.*

(b) Information provided in the Visitor Center on tourist amenities like attractions, lodging and dining, will not be limited solely to Rutherford County businesses.

(c) TDA will utilize their established branding and signage, which is subject to modification by the TDA. Currently, this includes “Lake Lure & The Blue Ridge Foothills” and the “Front Porch of the Blue Ridge” campaign. In signs and references to the Visitor Center, the TDA will include the reference “Serving the Hickory Nut Gorge.”

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(d) TDA shall maintain a regular forum for area tourism businesses to provide feedback and recommendations on Visitor Center services through the TDA's Visitor Information Network (VIN) subcommittee. TDA shall appoint two (2) members of the Hickory Nut Gorge Chamber of Commerce to the VIN subcommittee.

### **SECTION FIVE**

#### **UTILITIES**

- (a) TDA shall pay all of the monthly charges for electricity attributable to the premises.
- (b) The Town shall provide water and sewer utility service at no charge to TDA.
- (c) The Town shall make available a fiber optic broadband internet connection for use at no cost by TDA. TDA shall be responsible for the purchase of any equipment necessary for this connection.
- (d) The Town shall make available voice-over-IP telephone services for use at no cost by TDA. TDA shall be responsible for the purchase of phones and any necessary networking equipment.
- (e) The Town shall, from time to time, upon request from TDA, join in the granting of such utility easements as may be reasonably necessary to service TDA's requirements on the Premises.

### **SECTION SIX**

#### **PRE-RENOVATION REPAIRS, MAINTENANCE, AND CLEANING**

- (a) Prior to commencement of the building renovations and permanent leasehold improvements effected by the TDA on the Premises as set forth as the "Project" in Section Six(b) herein below, the TDA shall be responsible for the maintenance of the interior of the building on the Premises and shall keep said interior in good condition and ordinary repair as when received, ordinary wear and tear excepted. Said interior maintenance shall include regular custodial servicing and cleaning and pest control.
- (b) Prior to commencement of the Project, the Town shall be responsible for all repairs to permanent leasehold improvements, including, but not limited to, structural, mechanical, HVAC, exterior including doors, foundation repairs and repairs to the roof, as well as repairs as required because of water entering the Premises from the roof of other parts of the building or from other causes not under the control of the TDA.
- (c) The Town and the TDA shall each make all necessary repairs and replacements of the portions of the Premises which are required to maintain and repair as aforesaid, and all repairs and replacements shall be diligently commenced and completed.

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- (d) The Town shall be responsible for snow removal and parking lot maintenance.

### **SECTION SEVEN**

#### **BUILDING RENOVATION AND IMPROVEMENT**

A substantial exterior and interior renovation project is contemplated to be undertaken within the first year of this lease (the "Project"). This Project will be funded and managed by the TDA, who will appoint the VIN subcommittee to be responsible for all recommendations on design, materials, and costs (the "Project Team"). The VIN subcommittee shall ensure that the Hickory Nut Gorge Chamber of Commerce and the general public will each be given the opportunity to review and make suggestions as to the Project, but final decisions for the proposal to the Town will be made by TDA upon advice of the VIN subcommittee. Upon approval by the TDA, and prior to commencement of any construction, the Project must be approved by the Town, which shall have final authority to approve the proposed Project. The TDA shall submit its first proposal for the design of the Project, as well as a proposed work schedule for the Project, to the Town no later than February 28, 2013. Any future renovations, modifications, or improvements shall also be implemented in accordance with these terms, including being subject to the Town's approval. The Project will include assessment and remediation of the plumbing system for the Community Center. As part of the Project, the Town shall make improvements to the sewer line connecting the building with the nearest manhole.

Tenant acknowledges that the building is situated within a flood zone as currently designated by the National Flood Insurance Program. As such, the total, cumulative investment in building improvements is limited to fifty percent (50%) of the building's current value unless significant floodproofing measures are implemented. The building is currently valued at \$200,000.

### **SECTION EIGHT**

#### **POST-RENOVATION REPAIRS, MAINTENANCE, AND CLEANING**

(a) Subsequent to completion of the Project, the TDA shall be responsible for the maintenance of the interior and exterior of the Premises and shall keep said interior and exterior in good condition and repair, ordinary wear and tear and damages caused by the hazards included within standard fire and extended coverage insurance, or by flood, or extraordinary action of the elements excepted. Said interior maintenance shall include regular custodial servicing and cleaning.

(b) Subsequent to building renovations and permanent leasehold improvements effected by the TDA, the TDA shall be responsible for all repairs to permanent leasehold improvements, including, but

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not limited to, structural, mechanical, HVAC, exterior including doors, foundation repairs and repairs to the roof. TDA acknowledges that the present condition of the roof on the Visitor Center is not good and accepts it in its present condition as of the date of execution of this Agreement.

(c) The TDA shall make all necessary repairs and replacements of the portions of the Premises which are required to maintain and repair as aforesaid, and all repairs and replacements shall be diligently commenced and completed.

(d) The Town shall continue to be responsible for snow removal and parking lot maintenance.

### **SECTION NINE**

#### **INSURANCE**

(a) TDA shall carry throughout the Term, including the Option period, if any, at its own expense, an Owners, Landlords, and Tenants General Public Liability Policy covering both the Town and the TDA with minimum limits of \$1,000,000 for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of \$1,000,000. Certificate evidencing such insurance shall be furnished to the Landlord, and Tenant will deliver to the Landlord certificates of renewal of such policy not less than ten (10) days in advance of the expirations thereof; such policy shall not be subject to cancellation without at least ten (10) days prior written notice to the Landlord.

The parties hereto shall cooperate and carry throughout the Term, including the Option period, if any, a Policy for flood insurance covering both the Town and the TDA with minimum limits sufficient to cover the cost of replacing the Visitor Center in the event of a flood. TDA will obtain the policy on behalf of the Town and TDA. Certificate evidencing such insurance shall be furnished to the Town, and TDA will deliver to the Town certificates of renewal of such policy not less than ten (10) days in advance of the expirations thereof, at which time Town shall reimburse TDA for one-half (1/2) of the cost of the said policy; such policy shall not be subject to cancellation without at least ten (10) days prior written notice to the Town.

(b) TDA shall maintain and keep in force all employers' compensation insurance required under the laws of the State of North Carolina, and such other insurance as may be necessary to protect the Town against any other liability to person or property arising hereunder by operation of law, whether such law be now in force or adopted subsequent to the execution thereof.

(c) Should the TDA fail to keep in effect and pay for such insurance as it is in this section required to do, the Town may do so, in which event the Town may send receipt of the insurance premiums paid by the Town to TDA at the address shown under the Notice section herein, and such



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premiums paid shall become immediately due and payable by TDA to the Town. Failure of TDA to reimburse such insurance premiums within thirty (30) days shall constitute a breach of this Lease.

(d) Tenant shall secure appropriate fire, theft and casualty insurance coverage on any and all of its contents situated upon said Premises and any and all improvements it makes to said Premises.

(e) The Town shall maintain and carry, throughout the Term at its own expense, hazard insurance on the Premises insuring against loss or damage by fire, earthquake, vandalism and other perils in the amount of the replacement value of the Premises and any leasehold improvements thereto. The TDA shall be named as an additional insured as to any leasehold improvements made by the TDA, if any, pursuant to the terms of this Lease Agreement.

### **SECTION TEN**

#### **FIXTURES**

TDA shall have the right to remove Town-authorized improvements that it makes and fixtures that it adds to the Premises at such time as the Lease, or any renewal or extension thereof, concludes or is terminated; provided, however, that:

(a) The Premises are left in as good a state as when received, reasonable wear and tear and damage by fire or other casualty excepted;

(b) No portion of the Community Center shall be demolished or removed by Tenant without the prior, express written consent of Landlord; and

(c) Such removal shall be performed in a satisfactory manner and not weaken or impair the structural strength of the Community Center or any portion of the Premises.

Failure to remove such improvements or fixtures on or before the final day TDA holds possession of the Premises shall not be deemed a holding over under the terms of this Lease, but shall be deemed an abandonment of the improvements or fixtures, and TDA shall not then incur any costs for the removal thereof. Nothing in this Section Ten shall permit TDA to seek or compel reimbursement from the Town for the Project but is intended by the parties hereto to permit TDA to remove and take its equipment and personal property whether or not attached to the Visitor Center.

### **SECTION ELEVEN**

#### **ASSIGNMENT**

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TDA shall not assign or in any manner transfer this Lease or any estate, interest or benefit therein or sublet the Premises or any part thereof or permit the use of the same or any part thereof not anyone other than TDA without the prior written consent of the Town.

### **SECTION TWELVE DAMAGE TO PREMISES**

(a) If the improvements on the Premises shall be damaged or destroyed by fire or by any other hazard insured by hazard insurance, then the party responsible for such damage through insurance coverage as set forth in Section Nine above shall work with such insurance company to effect such repairs or restore said improvements to substantially the same condition which existed before such damage or destruction.

(b) Since the annual rent is \$1.00, in the event that any damage from the causes aforesaid shall render the Premises totally or partially unusable for TDA's purposes under this Lease shall not be abated in proportion to the loss of effective use of the Premises.

(c) If the destruction or damage amounts to more than seventy-five percent (75%) of the insurable value of the Premises, then either party may terminate this Lease by written notice to the other party within thirty (30) days after the date of such occurrence. Provided, however, that this Lease shall not thereby terminate if the damage shall have resulted from a hazard included in standard fire and extended coverage insurance and if TDA shall, within said thirty (30) day period, or within ten (10) days after notice of termination by the Town, send the Town written notice of its election to continue this Lease commencing four (4) weeks after the date that restoration by the Town shall be completed and available to the TDA for the conduct of its business; and in such event this Lease shall continue in effect, except that until the restoration by the Town shall be completed, the rent shall abate in the manner provided in paragraph (b) of this Section Twelve. In the event of any termination under this paragraph (c), this Lease shall terminate as of the date of the occurrence, and the rent and all other payments owing or already paid by the TDA shall be adjusted as of said date.

### **SECTION THIRTEEN INDEMNIFICATION OF LANDLORD**

TDA during the term hereof shall indemnify the Town against all claims and demands, whether for injuries to persons, loss of life, or damage to property occurring with the Premises and arising out of the use and occupancy of the Premises by TDA, excepting, however, such claims and demands caused by

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acts or omissions of the Town. Nothing contained in this section shall, however, detract from TDA's rights to protection under the liability insurance policy to be paid for by TDA as specified in Section Nine hereof.

**SECTION FOURTEEN**

**DEFAULT**

If at any time during the term or extensions of this Lease there shall be a default within the provisions of this Agreement, except as stated in Section One, and if TDA fails to cure such default within the Cure Period, then the Town may remedy or attempt to remedy any such default or other noncompliance and expend any sums necessary therefore at the cost and expense of TDA, and the sums so expected shall be payable to the Town on demand with lawful interest thereon and may be added by the Town to any rents or other sums due or to become due hereunder. On termination, the Town may recover from TDA all damages proximately resulting from the breach, including the worth of the balance of the Lease over the reasonable rental value for the Premises for the remainder of the Lease term, which such shall be immediately due the Town from TDA.

**SECTION FIFTEEN**

**NOTICES**

It is agreed that all notices regarding this Lease shall be sent by certified or registered mail to:

If to Town:

The Town of Lake Lure

\_\_\_\_\_  
\_\_\_\_\_

If to TDA:

Rutherford County Tourism Development Authority

\_\_\_\_\_  
\_\_\_\_\_

Either party may designate by written notice to the other party a change in address to which notices may be directed to said party.

**SECTION SIXTEEN**

**OTHER MATTERS**

(a) The failure by the Town to insist upon the strict performance of any agreement, term or condition of this Lease or to exercise any right or remedy consequent upon an unremedied breach thereof, and the acceptance of full or partial rent during the continuance of any unremedied breach, shall not

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constitute a waiver of any such unremedied breach or the performance of such agreement, term or condition of this Lease to be performed or complied with by TDA, and no unremedied breach thereof shall be deemed waived, altered or modified except by written instrument executed by the Town. The waiver of any breach shall not affect or alter this Lease, but each and every agreement, term or condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(b) Each right and remedy of the Town provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity, by statute or otherwise and the exercise or beginning of the exercise by the Town of any one or more of the rights or remedies provided for in this Lease as now or hereafter existing at law or in equity, by statute or otherwise, shall be precluded the simultaneous or later exercise by the Town of any or all other rights or remedies for any then existing breach which has not then been remedied or in the course of being remedied provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

(c) In the event of default, the Town shall use its best efforts to mitigate damages.

(d) All parties hereto agree that in no event shall either the Town or the TDA be liable or responsible to each other, or to other persons, due to any stoppage or delay in operation of the Visitor Center or in any work contemplated by the Project, where such stoppages or delays result from acts of God, fire, war, legal, or equitable proceeding, or any other cause which is outside the control of either party hereto.

(e) It is agreed by the parties hereto that visitors and TDA volunteers and employees to the Visitor Center shall have the right to park in parking lots owned by the Town. The Town will be solely responsible for maintenance of any said parking lots.

### **SECTION SEVENTEEN**

#### **NO WAIVER OF IMMUNITY**

No portion of this Lease shall be deemed to constitute a waiver of any immunities which the Town or the TDA or their officers or employees may possess, nor shall any portion of this Lease be deemed to have created a duty of care on the part of either party to any persons not a party to this Lease.

### **SECTION EIGHTEEN**

#### **NON-APPROPRIATION**

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No portion of this Agreement shall be deemed to create an obligation on the part of TDA or Town to expend funds not otherwise appropriated in each succeeding year.

### **SECTION NINETEEN ENTIRE AGREEMENT**

This Lease sets forth all the promises, agreements, conditions, and undertakings between the Town and TDA relative to the Premises, and there are not promises, agreements, conditions, undertakings, warranties or representations, oral or written expressed or implied, between then varying the terms of this Lease.

### **SECTION TWENTY SEVERABILITY**

If any section, subsection, paragraph, sentence, clause or phrase of this Agreement is for any reason held or decided to be invalid or unconstitutional, such a decision shall not affect the validity of the remaining portions. The parties hereto declare that they would have entered into this Agreement and each and every section, subsection, paragraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases might be declared to be unconstitutional or invalid.

### **SECTION TWENTY-ONE AMENDMENTS AND TERMINATION**

This Lease shall be modified, altered, amended, or changed, only by written instrument executed by all the parties hereto. The parties hereto may agree to terminate this Lease at any time by written instrument executed by all the parties hereto.

### **SECTION TWENTY-TWO OBLIGATIONS AND SUCCESSORS**

The Town and TDA agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof, and that all of the provisions hereof shall bind and inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors, and assigns.

**SECTION TWENTY-THREE**

**EXPIRATION OF LEASE**

Upon termination or expiration of this Lease or the Option period, as appropriate, or any extension or renewal thereof, TDA shall deliver to the Town physical possession of the Premises in as good condition as the Premises are at the commencement of the Term, ordinary wear and tear and damage by fire or other casualty excepted. The Town acknowledges it is contemplated by the Lease that alterations may be made to the Premises through the Project as set forth herein.

**IN WITNESS WHEREOF**, said parties have hereunto set their hands and seals to this Agreement and Lease, in duplicate, the day and year first above written.

Mayor Bob Keith recessed the meeting to the council meeting room at the Municipal Center at 12:15 p.m.

Mayor Keith reconvened the meeting at 12:30 p.m.

<p><b>CONSIDER ADOPTION OF RESOLUTION NO. 12-08-14C CONVEYING PROPERTY TO LAKE LURE CLASSICAL ACADEMY FOR PHASE 1 OF BUILDING CONSTRUCTION</b></p>
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Chris Braund gave an overview of the proposed resolution and agreement between the Town of Lake Lure and Lake Lure Classical Academy.

Commissioner John Moore asked Russ Pitts to explain why financing the proposed school building through a bank is more advantageous than financing through the Challenge Foundation. Commissioner Moore also asked what the building is projected to cost emphasizing the importance of maintaining education fund levels for the school through low debt payments. Mr. Pitts explained the loan process used for the school building and stated that they are using the most economical materials and resources available for building the school.

Commissioner John Moore asked if the school board would commit to using local contractors for the school building construction. Russ Pitts stated that they will utilize local contractor as much as possible as long as it is economical and that the school's finance committee and parents to do their best to try and control the school's debt ratio by using low revenue predictions and making sure there is plenty of contingency room in their budget.

Commissioner John Moore questioned a statement on the transfer documents regarding the property's GU zoning. Town Manager Chris Braund and Town Attorney Chris Callahan explained that when discussing putting restrictions on the deed it was determined the town has the ability to control the use of the property through zoning. Mr. Braund also stated that appraisal value can also be influenced by the property's zoning restrictions.

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Commissioner John Moore suggested that the proposed resolution be amended to state that the school would report to town council quarterly instead of annually. Commissioner Moore also suggested that the resolution state that the town of Lake Lure may assign a council member or designee to serve as liaison to the Lake Lure Classical Academy School Board instead of stating that “the town will assign a town Councilperson as liaison”.

Commissioner Mary Ann Silvey stated that the school has exceeded her expectations at the temporary site and that she has been astounded by the school’s growth. Commissioner Silvey further stated that she is reluctant to change the wording in the transfer documents created by attorneys.

After discussion, Commissioner Mary Ann Silvey made a motion to adoption Resolution No. 12-08-23A conveying property to Lake Lure Classical Academy for phase 1 of building construction. Commissioner Diane Barrett seconded the motion.

After further discussion, Commissioner John Moore made a motion to amend Commissioner Mary Ann Silvey’s motion to adopt Resolution No. 12-08-23A to include the following amendments to the proposed resolution:

- Replace the word “annually” with “quarterly” in the following sentence:
  - o *“The School will report to Lake Lure at least annually on the status of the property and the School, and on the usage by the community of School facilities.”*
- Replace the word “will” with “may” and “councilperson” with “council member or designee” in the following sentence:
  - o *“The Town of Lake Lure will assign a Town Councilperson as a liaison to attend open sessions of School Board meetings and to be a conduit for communication between the two bodies.”*

Commissioner Diane Barrett seconded the motion. Commissioner John More, Commissioner Bob Cameron, and Commissioner Diane Barrett voted in favor of amending the motion. Commissioner Mary Ann Silvey opposed.

Council members unanimously voted to approve the amended motion adopting Resolution No. 12-08-23A as amended.

### **RESOLUTION 12-08-23A**

**WHEREAS**, the North Carolina General Assembly recently adopted House Bill 1199, Session Law 2012-115, ratified June 28, 2012, entitled AN ACT AUTHORIZING THE TOWN OF

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**LAKE LURE TO CONVEY CERTAIN DESCRIBED PROPERTY BY GIFT, PRIVATE SALE, OR LONG-TERM LEASE; and**

**WHEREAS**, the above referenced statute authorizes the Town of Lake Lure to convey by gift, private sale or long-term lease, “with or without monetary consideration, under the terms and conditions it deems proper, any or all of its rights, title and interest” in any portion or all of 80.96 acres as described within said statute for the purpose of operating a public school, including a public charter school; and

**WHEREAS**, the property attached hereto as Exhibit A is a portion of the 80.96 acres authorized by the General Assembly and described above; and

**WHEREAS**, the General Assembly in this statute also provided that the provisions of Article 12, of Chapter 160A relative to the conveyance of this property pursuant to the authority granted in the above referenced statute do not need to be followed; and

**WHEREAS**, the Board of Commissioners of the Town of Lake Lure does not believe that any portion of the 34.04 acres described in Exhibit A attached hereto will be needed by the Town of Lake Lure and that its best use will be utilized as a charter school serving the Town of Lake Lure and surrounding area.

**NOW THEREFORE**, the Board of Commissioners of the Town of Lake Lure (“Lake Lure”) hereby resolves to convey by Deed to Classical Academies CFA, Inc. (“School”) without monetary consideration, all its right, title and interest in and to the following 34.04 acre tract or parcel of land which is attached hereto as Exhibit A and adopted herein by reference.

This conveyance shall be subject to the following understandings and conditions:

- 1) The deed will be conveyed with a reversionary clause, so that should the School fail to obtain a certificate of occupancy (or its equivalent) permitting the operation of a public school (including a public charter school) on the property within five (5) years following conveyance of the property to the School, ownership shall revert back to Lake Lure. This reversionary clause will be included in the recorded deed so that it applies to 3<sup>rd</sup> party lien holders and subsequent land owners .
- 2) Certain School facilities will be made available for use as a community hub--a school campus where all people of all ages can be engaged in activities of learning, recreation, civic discourse and entertainment from time to time, provided such uses are consistent with the operation of the school, as determined by the School’s board of directors and subject to rules and regulations imposed by the School from time to time.



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- 3) The School will report to Lake Lure at least quarterly on the status of the property and the School, and on the usage by the community of School facilities. The Town of Lake Lure may assign a Town Councilperson or designee as a liaison to attend open sessions of School Board meetings and to be a conduit for communication between the two bodies.

Paragraph 1 will be by virtue of a restriction in the Deed. Paragraphs 2 and 3 will be pursuant to a written Agreement between the Town of Lake Lure and Classical Academies CFA, Inc.

The Mayor and Town Clerk are hereby authorized to execute a Non Warranty Deed to Classical Academies CFA, Inc. for the property attached hereto as Exhibit A.

Adopted this 23rd day of August, 2012.

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Robert M. Keith, Mayor  
Attest:

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Andrea H. Calvert, Town Clerk

Approved as to Form:

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J. Christopher Callahan, Town Attorney

**EXHIBIT A**

Lake Lure Classical Academy

Phase 1 Boundary - Legal Description as shown on a plat by WNC Professional Engineers & Surveyors, dated 8/14/2012, entitled Subdivision Plat for Town of Lake Lure - Job #120305.

Beginning at a I inch iron pipe, being the Southeastern property corner of the Cane Creek Missionary Baptist Church property as described in deed book 350, page 342, with NCGS NAD 83 coordinates of N=619,030.64 & E=1,048,324.49i thence 11 new property lines through the Town of Lake Lure property as described in deed book 153, page 356 (1) N48-07"12E 613.90' to a set #5 rebar & survey cap; thence (2) N76-09-53E 445.57' to a set #5 rebar & survey cap; thence (3) N84-16-55E 266.80' to a set #5 rebar & survey cap; thence (4) S05-43-05E 552.40' to a set #5 rebar & survey cap; thence (5) S50-25-56W 350.87' to a set #5 rebar & survey cap; thence (6) S26-34-1QW 640.64' to a set #5 rebar & survey cap;

thence (7) S88-20-17W 322.32' to a set #5 rebar & survey cap; thence (8) N83-11-01W 128.23' to a set #5 rebar & survey cap; thence (9) N76-09-17W 571.52 to a set #5 rebar & survey

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cap'; thence (10) S13-18-15W 304.03' to a set #5 rebar & survey cap; thence (11) N80-47-35W 130.01' to a point in the Eastern right-of-way of NC Hwy #9; thence with said right-of-way N09-31-25E 147.74' to a point in said right-of-way; thence continuing with said right-of-way with a curve to the left having a radius of 955.00' and arc length of 382.18' to a point in said right-of-way; thence with said right-of-way N13-24-19W 109.92' to a point, being the Southeastern property corner" of Cane Creek Missionary Baptist Church property as described in deed book 350, page 342; thence leaving said right-of

way and running with the Southern property line of said church property N61-35-39E 636.12', a to the point of beginning. Containing 34.04 acres and being a portion the Town of Lake Lure property as described in deed book 153, page 356.

Also in addition to the above legal description are 2 Construction Easements and 2 Access-Utility-Construction Easements as shown on a plat by WNC Professional Engineers & Surveyors, dated 8/14/2012, entitled Subdivision Plat for Town of Lake Lure -Job #120305.

<b>ADJOURN THE MEETING</b>
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With no further items of discussion, Commissioner Mary Ann Silvey made a motion to adjourn the meeting. Commissioner John Moore seconded the motion and the vote of approval was unanimous.

ATTEST:

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Andrea H. Calvert  
Town Clerk

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Mayor Bob Keith