

BRIEFING
DRAFT

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: April 24, 2017

AGENDA ITEM NUMBER: 14

SUBJECT: RESOLUTION APPROVING AN EXTENSION OF A SUBLEASE AGREEMENT BETWEEN FORSYTH COUNTY, NOVANT HEALTH, INC. AND LIBERTY COMMONS NURSING AND REHABILITATION CENTER OF SPRINGWOOD, LLC RELATING TO THE SPRINGWOOD CARE CENTER

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS:

YES

NO

DATE:

SIGNATURE:

COUNTY MANAGER

RESOLUTION APPROVING AN EXTENSION OF A SUBLEASE AGREEMENT
BETWEEN FORSYTH COUNTY, NOVANT HEALTH, INC. AND LIBERTY COMMONS
NURSING AND REHABILITATION CENTER OF SPRINGWOOD, LLC RELATING TO
THE SPRINGWOOD CARE CENTER

WHEREAS, pursuant to a Sublease Agreement dated May 1, 2012, Liberty Commons Nursing and Rehabilitation Center, LLC (LC Springwood) subleases County-owned property known as the Springwood Care Center located at 5755 Shattalon Drive, Winston-Salem, NC from Novant Health, Inc. (Novant) and operates a skilled nursing facility at this location licensed to operate two hundred (200) skilled nursing beds; and

WHEREAS, pursuant to an Asset Purchase Agreement dated May 1, 2012 between Forsyth County and Liberty Healthcare Properties of Springwood, LLC (LHP Springwood) and the Sublease Agreement between Novant, LC Springwood and Forsyth County, LHP Springwood and LC Springwood have agreed to build skilled nursing facilities in Forsyth County suitable for the relocation of the two hundred (200) skilled nursing beds at Springwood Care Center by April 30, 2017; and

WHEREAS, Section 3 of the Sublease Agreement provides that if LC Springwood (as Sublessee) "is in full compliance with the terms of this Sublease and is proceeding in good faith and due diligence to Complete the Replacement Facilities, but one or more of the Replacement Facilities will not be Complete by April 30, 2017 through no fault of Sublessor or its affiliates, Sublessee may request in writing a reasonable period in advance that the County and Sublessor extend the Term for a period of up to six (6) months, which extension request shall not be unreasonably denied"; and

WHEREAS, an affiliated Liberty entity is nearing the completion of construction of a one hundred (100) bed skilled nursing facility located in Kernersville, North Carolina; however, the Kernersville Facility has experienced unavoidable construction delays, therefore, the Kernersville Facility will not be completed by April 30, 2017; and

WHEREAS, an affiliated Liberty entity will develop an additional one hundred (100) bed skilled nursing facility at 1940 Bethabara Road (Silas Creek), Winston-Salem, NC and shall commence with the development of the Silas Creek Facility following the relocation of the remaining residents from the Springwood Care Center to the Kernersville Facility; and

WHEREAS, LC Springwood hereby requests that the term of the Sublease be extended to August 30, 2017 and that such an extension of the term of the Sublease Agreement not be considered a breach of either the Asset Purchase Agreement (APA) or the Sublease Agreement by either LC Springwood or LHP Springwood; and

WHEREAS, the approval of both Forsyth County and Novant are necessary in order to extend the Sublease Agreement as requested by LC Springwood; and

WHEREAS, LHP Springwood shall pay to Forsyth County the balance of the Purchase Price (as defined in the APA) at the Closing (as defined in the APA) once all conditions have been met with respect to the Kernersville Facility;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby approves, on behalf of Forsyth County, an extension of the Sublease Agreement between Novant, LC Springwood and Forsyth County relating to the Springwood Care Center to August 30, 2017.

BE IT FURTHER RESOLVED that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the necessary documents to extend the Sublease Agreement relating to the Springwood Care Center to August 30, 2017, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this 24th day of April 2017.