

Permit No.	Scan Date	DIN
5504-CDLF-1999	June 20, 2016	26284

BOARD OF COMMISSIONERS

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 May 26, 2016
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LINCOLN COUNTY

115 WEST MAIN STREET
 THIRD FLOOR, CITIZENS CENTER
 LINCOLNTON, NORTH CAROLINA 28092
 704/736-8473 FAX 704/736-8820

**ORDINANCE GRANTING A NONEXCLUSIVE
 CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL
 FRANCHISE TO LAKE NORMAN LANDFILL, INC.
 AND FRANCHISE AGREEMENT BETWEEN LINCOLN COUNTY
 AND LAKE NORMAN LANDFILL, INC. RELATED TO FRANCHISE**

WHEREAS, the Board of Commissioners enacted the Lincoln County Landfill Franchise Ordinance on November 7, 2003; and

WHEREAS, North Carolina General Statutes § 153A-136(a)(3) authorizes counties to regulate the disposal and other disposition of solid wastes by granting franchises to one or more persons for the exclusive right to commercially dispose of solid wastes within the county; and

WHEREAS, Lake Norman Landfill, Inc. ("Lake Norman") is currently operating an approximately 115 acre construction and demolition debris landfill (the "Landfill") within the jurisdiction of Lincoln County; and

WHEREAS, at the time that Lake Norman began operations at the Landfill, the County by affidavit affirmed to the North Carolina Department of Environment and Natural Resources ("DENR") that Lake Norman had all required approvals for operation of the Landfill; and

WHEREAS, Lake Norman wishes to move forward with the next phase of the Landfill pursuant to a new Ordinance Granting a Nonexclusive Construction and Demolition Debris Landfill Franchise to Lake Norman Landfill, Inc.; and

WHEREAS, the Board of Commissioners desires to grant to Lake Norman a nonexclusive franchise for the disposal of construction and demolition debris in Lincoln County; and

WHEREAS, in lieu of host fees, the Board of Commissioners and Lake Norman have agreed to establish a grant program, which will be funded by Lake Norman in accordance with this Franchise and Agreement to be used for grants to non-profit organizations operating in and for the benefit of Lincoln County.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF LINCOLN DOTH ORDAIN:

Section 1. Pursuant to the Lincoln County Landfill Franchise Ordinance and North Carolina General Statutes §§ 130A-294, 153A-121 and 153A-136, Lake Norman is hereby granted a nonexclusive franchise to proceed with an extension of its current permit and/or permitting of the next phase of the Landfill on Quarry Lane in Lincoln County and to operate said Landfill in Lincoln County.

Section 2. Nothing contained in this Agreement shall prohibit Lincoln County from operating a landfill for construction and demolition waste or from granting franchises to other entities to operate such landfills.

Section 3. The term of the Franchise and Agreement will be five years from the date on which Lake Norman's permit renewal is issued.

Section 4. Lake Norman agrees to operate the Landfill in accordance with Conditional Use Permit No. 107 issued by the County to Lake Norman and in compliance with all applicable laws, regulations, rules and governmental orders.

Section 5. The population to be served by the Landfill will consist primarily of commercial contractors who specialize in construction, demolition, and land-clearing activities and haulers who haul materials generated from such activities. The area to be served by the landfill will be the area of approximately 100 miles around the Landfill.

Section 6. It is anticipated that Lake Norman will accept up to approximately 200,000 tons of waste annually. The waste stream that may be accepted by the Landfill will be composed of all waste that may be accepted at permitted construction and demolition debris landfills by applicable North Carolina laws and regulations.

Section 7. The anticipated useful life of the Landfill is approximately 15 years.

Section 8. Beginning on the earlier of a) the date that DENR approves Lake Norman's request for an extension of its existing permit or b) the date that DENR issues a permit renewal to Lake Norman, Lake Norman will have an obligation to pay an annual amount of \$50,000.00 for grant funding. Lake Norman will make the first annual payment of \$50,000.00 on June 1, 2004. Lake Norman's obligation to fund the grant program will terminate prior to the termination of this Agreement if the Landfill closes or ceases doing business. Lake Norman will not have an obligation to pay the annual payment for any calendar year during which no waste is accepted at the Landfill. In the event that the Landfill should close or cease doing business during a calendar year, a pro rata share of the annual payment will be made as follows: if the Landfill closes or ceases doing business prior to June 1 of the calendar year, Lake Norman will pay a pro rata amount up to \$25,000.00 based on the percentage of the year Lake Norman conducts business.

The annual grant payments will be made to the Lake Norman Landfill, Inc. Lincoln County Non-Profit Grant Program. This program will be administered by a committee of seven (7) members, with one member appointed by the Board of County Commissioners from each of the County's five townships, one member selected by the Board of County Commissioners from its own membership, and one member selected by Lake Norman. The committee will establish guidelines for eligibility and application for the grants and administer the program in accordance with those guidelines. The annual application process for grants will begin in January with grant

Lake Norman-Lincoln County Franchise and Agreement

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payments to be made after receipt of the annual payment from Lake Norman. The committee will provide the Board of County Commissioners and Lake Norman with a report of all funds received, grants given and expenses incurred at least annually.

Section 9. The application and fee of \$1000.00 have been received.

Section 10. The stated gate rate for the Landfill, which will be effective upon approval of the franchise and has been approved by the County, is \$35.00 per ton with applicable volume discounts. Lake Norman shall give notice of any proposed stated gate rate changes to the County at least sixty (60) days prior to the proposed effective date of the rate changes.

Section 11. Lake Norman may assign this Franchise and Agreement or any right accruing under this Franchise and Agreement by giving written notice to the County. In the event of any assignment, the assignee shall receive the rights and assume the liabilities of Lake Norman.

Section 12. This ordinance requires readings and approval at two regular meetings of the Board of Commissioners of Lincoln County, pursuant to and as required by N.C.G.S. § 153A-46, and will become effective following the second reading and approval.

This 5th day of January, 2004.

LINCOLN COUNTY

ATTEST:

By: Jerry W. Cochrane
Jerry W. Cochrane
Chairman, Board of Commissioners

Amy S. Long
Amy S. Long
Clerk to the Board

LAKE NORMAN LANDFILL, INC.

ATTEST:

By: [Signature]
President

[Signature]
Secretary