

Regular Session, February 4, 2013, 9:30 a.m.
Catawba County Board of Commissioners

Appointments

Dangerous Dog Appellate Board 715 02/04/13

Closed Session

Attorney/Client Privilege and Consider qualification/performance of public officer or employee 728 02/04/13

Elections

2012 Help America Vote Act (HAVA) Coding Grant 715 02/04/13

NCDOT

NCDOT Secondary Roads Improvement Plan for Catawba County for 2012-13 715 02/04/13

Ordinances

Ordinance Granting an Exclusive Solid Waste Management Franchise to Republic Services Of North Carolina, LLC for Solid Waste Management and Disposal Services 715 02/04/13

Presentations

Dedication of Catawba County Justice Center Entrance in honor of L. David Huffman 714 02/04/13

NCDOT Secondary Roads Improvement Plan for Catawba County for 2012-13 715 02/04/13

Utilities and Engineering

Second Reading/Approval of Solid Waste Management Franchise to Republic Services 715 02/04/13

The Catawba County Board of Commissioners met in regular session on Monday, February 4, 2013 at 9:30 a.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Barbara G. Beatty and Commissioners Dan A. Hunsucker, Lynn M. Lail and Randy Isenhower.

Also present were County Manager J. Thomas Lundy, Assistant County Managers Dewey Harris and Mary Furtado, County Attorney Debra Bechtel and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order 9:30 a.m.
2. Vice-Chair Barbara G. Beatty led the Pledge of Allegiance to the Flag.
3. Commissioner Randy Isenhower offered the invocation.
4. Commissioner Hunsucker made a motion to approve the minutes of the Board's Special Meeting of January 14, 2013 and the Regular and Closed Session Meetings of January 22, 2013.
5. Recognition of Special Guests: Chair Barnes welcomed all and specifically recognized Sheriff Coy Reid and Mr. Stine Isenhower as well as all who were present to celebrate with David Huffman on the dedication of the Entrance to the Catawba County Justice Center.
6. Public Comments for Items Not on the Agenda: None.
7. Presentations:
 - a. All Board members joined Chair Kitty Barnes at the podium as the Board formally acted to dedicate the entrance to the Catawba County Justice Center in honor of L. David Huffman, in recognition of his 32 years of service to Catawba County, including four years as a county commissioner and 28 years as Sheriff. The Board presented David Huffman with a plaque which will be placed in the entrance of the Justice Center and

Board members expressed their thanks for his service to the County. Mr. Huffman expressed his gratitude for the dedication and for the years he was able to serve the citizens of Catawba County.

b. The Board received a report from District Engineer Michael Poe from the North Carolina Department of Transportation (NCDOT) on the Secondary Roads Improvement Plan for Catawba County approved by NCDOT for fiscal year 2012-2013. Since North Carolina law gives the North Carolina Board of Transportation the authority to approve these projects, the Board of Commissioners received this report for information only. The rural paving Number 1 Priority is Lawing Chapel Road, with rural paving alternates of Indian Trail Road, Crappie Drive, Liberty lane, Portion Road and No Name Road. The subdivision paving Number 1 Priority is Woodchuck Road and a portion of Lynnbrook Road, with alternates of Teakwood Drive, Oglesby Lane/Tico Road and Ponderosa Road. Paved and unpaved road improvements include the widening by 2 ft and resurfacing of Houston Mill Road from Springs Road to Lee cline road and maintenance functions on various roads as needed. These functions may include spot stabilization, paved road improvements, replacement of small bridges with pipes, safety project, etc. Board members thanked Mr. Poe for the NCDOT efforts. Vice-Chair Beatty made a motion to concur with this report. The motion carried unanimously.

- 8. Appointments: Commissioner Hunsucker recommended the appointment of Dennis Michael Rutledge for a first term on the Dangerous Dog Appellate Board to fill a vacant position. Mr. Rutledge’s term will expire February 3, 2016.

Chair Barnes stated that this recommendation came in the form of a motion, which carried unanimously.

- 9. Departmental Reports: A. Elections: Board of Elections Director Larry Brewer presented a request for the Board to accept a 2012 Help America Vote Act (HAVA) Coding Grant, administered by the North Carolina Board of Elections. The grant would add additional funding to the Catawba County Board of Elections in the amount of \$7,584.99, which would reimburse the County for coding costs for the May 17, 2012, second primary and November 6, 2012, general elections. The invoices for the second primary and general elections coding have been paid from the 2012 County budget and this grant would reimburse the County for that cost. Commissioner Lynn Lail made a motion to accept this grant. The motion carried unanimously. The following appropriations apply:

<u>Supplemental Appropriation</u>		
110-140050-857900	Other Contractual Services	\$ 7,584.99
<u>Revenue</u>		
110-140050-620160	HAVA Grant	\$ 7,584.99

B. Utilities and Engineering: Prior to this presentation, Chair Barnes noted that Utilities and Engineering Director Barry Edwards was a recipient of the Energy Leadership Award by the Business Journal of Charlotte and thanked him for all his efforts. Mr. Edwards then presented a second reading of a request for the Board to grant a new exclusive solid waste management franchise to Republic Services of NC, LLC, (formerly known as GDS) for solid waste management and disposal services in Catawba County, for a period of ten years, with an option for a four year extension by mutual agreement of both the County and Republic Services. This request was originally presented at the Board’s January 22, 2013 meeting and was approved. This second reading/approval was required in order for the agreement to meet requirements of the North Carolina General Statutes.

The new franchise agreement will substantially increase the number of items collected for recycling across Catawba County, with further expansion of items collected as needed over time; begin “single stream” collection of recyclable commodities so recycled materials would no longer have to be separated at curbside; enhance the collection of yard waste; increase Republic Services’ investment in Catawba County by \$13 million; and protect over 150 local jobs.

In 2003, the Board granted an exclusive solid waste management franchise to Republic Services for a ten year period beginning July 1, 2004, which will expire on June 30, 2014. The new franchise will take effect on July 1, 2013, and end on June 30, 2024, with an opportunity for a four year extension by mutual agreement of both the County and Republic Services.

Benefits to Catawba County citizens from the franchise agreement will include:

- Republic Services will convert to a single stream recyclable commodities collection for residences by January 1, 2014, which is one year earlier than expected under the current franchise. Use of a single stream will mean citizens will no longer be expected to separate different kinds of recyclable materials.
- The single stream collection will expand the types of materials that can be recycled at the curbside and include a large roll-out cart for recyclables for every household customer. Republic Services would add the collection of aluminum foil, paper, mixed paper, computer paper, office ledger, copier paper, memos, envelopes (with or without windows), adding machine tape, NCR paper (carbonless), colored paper, empty plastic bottles and containers (numbers 1-7), cardboard, pizza boxes, waxed cardboard, all types of glass, shrink wrap, grocery bags, upholstery cloth and other non-hazardous recyclable containers.

Curbside collection is currently limited to aluminum and steel cans, glass bottles and jars, newspapers with inserts, magazines and phone books, and plastic bottles with a neck smaller than the base of the bottle.

- Seventy percent of existing Republic Services customers, who currently rent roll-out carts, will see a \$1 per month reduction in their bill. The remaining 30%, who do not currently rent any cart, will pay an additional \$1.50 per month for the standard carts. Standard 96 gallon carts will become mandatory for both recycling and regular household waste because special trucks will be needed to provide single stream and automated collection. Sixty-five gallon carts, which are more easily handled by the elderly and disabled, will be available.
- Republic Services will provide a yard waste collection service to include small woody waste (wood and other yard waste such as leaves, vines, etc.) on an on-call basis for a fee of \$2 per 32-gallon bag collected. A minimum of \$20, or ten bags, will be required per service call. The current fee is \$1.50 per bag, but small woody wastes are currently excluded.
- In order to move to single stream recycling, Republic Services will upgrade its existing Material Recycling Facility (MRF) located in Conover, resulting in an increased local investment by Republic of \$12 million. The existing MRF will be converted to a single stream recycling facility over a one year period, becoming fully operational by July 1, 2014.
- Republic Services will agree to provide organic waste collection services in the future if desired or required by law, which may include but would not be limited to restaurant, fast-food, and cafeteria food waste, grocery store produce waste, and agricultural waste. This future collection service is included in the agreement because such services will be needed to manage probable future Federal and State Government landfill bans of organics from the waste stream. If required, Republic Services will provide service for all non-municipal residential, commercial, businesses, public schools, community college, hospitals, etc. in the County.
- Republic Services now provides only operators and container service at the County's five convenience centers. Under the new agreement, Republic Services will provide full management of the five Convenience Centers, including waste and recyclable collection, County landfill disposal fees, site maintenance and upkeep, and Center operations and management.
- Christmas tree recycling service will be provided for four weeks following December 25th.
- Republic Services will provide containers and collection services for up to six County-selected events at no charge. (Currently there are three County-selected events at which this service is provided: the Murray's Mill Harvest Folk Festival; the Catawba Valley Storytelling Festival at Historic Murray's Mill; and the

Lake Norman Folk Art Festival. The County retains the right to stop, replace, or add events within the agreed upon limits).

- Republic Services will provide reasonable collection of solid waste debris caused by Federal Emergency Management Agency (FEMA)-declared emergencies, if requested by the County.
- The new franchise agreement will retain Republic Services' current investment of approximately \$160 million, which equates to local taxes paid of \$85,370 in real, personal property, and vehicle taxes, and protect 157 local jobs.

Once the Board gives final approval of the franchise agreement at the Board's February 4, 2013 meeting, Republic Services would pay an annual franchise fee of \$50,000 each year for years 1 through 5 of the agreement, \$75,000 each year for the next six years and \$100,000 each year for the next four years, if the proposed option is extended. The current franchise fee is \$25,000 per year.

Chair Barnes asked when electronics would be able to be disposed of at the Blackburn site and Mr. Edwards said that would start July 1, 2013 – prior to that time, the Household Hazardous Waste Events would take these items. Vice-Chair Beatty clarified that there would be a fee for some of the older, larger televisions.

Commissioner Hunsucker made a motion to adopt the ordinance granting an Exclusive Solid Waste Management Franchise to Republic Services of NC for solid waste management and disposal services in Catawba County and the related agreements – Solid Waste Management Franchise Agreement and the Solid Waste Disposal Agreement. The motion carried unanimously. The following ordinance and agreements apply:

**ORDINANCE NO. 2013-
ORDINANCE GRANTING AN EXCLUSIVE SOLID WASTE MANAGEMENT FRANCHISE
TO REPUBLIC SERVICES OF NORTH CAROLINA, LLC,
FOR SOLID WASTE MANAGEMENT AND DISPOSAL SERVICES**

BE IT ORDAINED by the Board of Commissioners of Catawba County, in accordance with NCGS 153A-46 and 153A-136 of the North Carolina General Statutes, Chapter 32 of the Catawba County Code and other applicable laws, Republic Services of North Carolina, LLC, for Solid Waste Management and Disposal Services, is hereby granted an exclusive solid waste management franchise to operate within Catawba County, strictly subject to the terms and conditions set forth in:

- (1) That certain Solid Waste Management Franchise Agreement approved on the first reading January 22, 2013 and approved on the second reading February 4, 2013, which will become effective on July 1, 2013, between Catawba County and Republic Services of North Carolina, LLC,; and
- (2) That certain Solid Waste Disposal Agreement approved on the first reading January 22, 2013, and approved on second reading February 4, 2013, will become effective on July 1, 2013, between Catawba County and Republic Services of North Carolina, LLC,; and
- (3) This franchise shall be effective and is granted for a period of eleven (11) years, beginning July 1, 2013 and expiring June 30, 2024 with an extension of up to four (4) years possible through mutual consent.

BE IT FURTHER ORDAINED that the franchise shall become effective on July 1, 2013, upon final adoption after two readings.

Adoption on the first reading on January 22nd, 2013.

Final Adoption on the second reading February 4th, 2013.

NORTH CAROLINA

CATAWBACOUNTY

**SOLID WASTE MANAGEMENT
FRANCHISE AGREEMENT**

THIS AGREEMENT effective the _____ day of _____, 2013 between **CATAWBA COUNTY**, a body politic corporate in nature, or governmental agency existing by virtue of the laws of the State of North Carolina, (hereinafter "County") and **REPUBLIC SERVICES OF NORTH CAROLINA, LLC** (hereinafter "Republic"):

WHEREAS, County has a Solid Waste Management Ordinance, set forth in Chapter 32 of the Catawba County Code, which provides that the Board of Commissioners may grant an exclusive franchise for the provision of waste management (the "Waste Services"); and

WHEREAS, the Ordinance further provides that the Board of Commissioners prefers a single franchise for the provision of all such Waste Services; and

WHEREAS, County and Republic agree that countywide single-stream recycling and recycling in general is paramount to this Agreement; and

WHEREAS, Republic (formerly GDS) has the equipment, staff, knowledge, and proven good customer service to provide the services contained herein; and

WHEREAS, Republic, in addition to collecting municipal solid waste as defined in NCGS 130A-290(18a), and recyclable materials, owns and operates a materials recovery facility (the "MRF") and provides specified associated recycling activities in the entire unincorporated area of County (the "Recycling Services", and collectively with the Waste Services, the "Services"); and

WHEREAS, at regularly scheduled public meetings, held January 22, 2013 and February 4, 2013, the Board of Commissioners adopted Ordinance No. 2013-___ which authorizes a Solid Waste Management Franchise Agreement with Republic;

NOW, THEREFORE, the parties agree as follows:

1. Republic is granted, pursuant to Chapter 32 of the Catawba County Code, and Ordinance No. 2013-___, an exclusive permit to collect municipal solid waste in the unincorporated area of Catawba County and agrees to provide, once per week, roadside collection to every county resident in the unincorporated area.
2. Republic shall provide automated collection service along roadways originally built to North Carolina Department of Transportation (NCDOT) specifications and provide service along roadways that do not meet NCDOT specifications where all private roadway owners have agreed in writing to allow access by Republic.
3. The rights and privileges to collect and dispose of municipal solid waste shall be subject to all of the terms and conditions of the Catawba County Solid Waste Management Ordinance as set forth in Chapter 32 of the Catawba County Code and to all terms and conditions as may be set forth in any amendment to the "Solid Waste Ordinance" by the Board of Commissioners of Catawba County. In the event of a conflict between the terms and conditions of the ordinances and this Agreement, the terms of the ordinances shall prevail.
4. Municipalities within the County, under North Carolina General Statute ("NCGS") 153A-122, may elect to adopt the County's Solid Waste Ordinance as it applies to any or all solid waste not collected by the municipality. Due to the difference in customer density in the unincorporated areas of the County, any municipality adopting the County ordinance may negotiate a fee schedule with Republic that differs from the fees established by the County.

5. Republic agrees that it, or its subsidiaries or assigns, will not make or require any type of compensation under NCGS 160A-327 should County elect to follow NCGS 160A-327.

6. The service fee portion of the rates for the Services may be adjusted annually effective July 1 of each year. The fee change shall be based on the one year change in the Consumer Price Index (CPI), All Urban Consumers, U.S. City Average, All items, as published for the month of December of the preceding year. The amount of the CPI adjustment shall not exceed 3%. By January 31 of each year, Republic shall provide the County Manager with the amount of the adjustment and the new rates. The County Manager, after consulting with the Board of Commissioners, shall have the right to deny the increase by giving Republic notification of the denial by February 28. If the County Manager denies the increase, Republic shall have the right to appeal the denial to the County Board of Commissioners. In addition, Republic may petition the County for rate adjustments at reasonable times on the basis of unusual changes in its cost of doing business, such as revised laws, ordinances, and regulations.

7. Republic agrees to pay County an Annual Franchise Fee of \$50,000 for each year of the first five (5) years of this Agreement beginning on July 1, 2013. Starting July 1, 2018, the Annual Franchise Fee is \$75,000 for each of the next six (6) years. If the parties wish to continue this Agreement for an additional four (4) years, the Annual Franchise Fee will be \$100,000 per year. If the County terminates this Agreement for any reason during the term, it shall refund Republic the portion of the Annual Franchise Fee attributable to Services not yet performed after the termination.

8. Republic agrees to provide curbside municipal solid waste and recyclable commodities collection Services to every non-municipal residence that subscribes to municipal solid waste collection services and to promote and sell those Services to all residences in the County by holding a minimum of one (1) marketing event annually which must include a new customer discount. County will provide information about Services to all new construction activities through building permit issuance and certificates of occupancy.

Republic agrees to convert curbside municipal solid waste collection Services to an automated collection system by October 1, 2013.

Republic agrees to convert to a single-stream recyclable commodities collection Services for residences by January 1, 2014. Republic agrees that it will provide a financial incentive to residences that subscribe to Waste Services and that also subscribe to Recycling Services.

County Board of Commissioners will determine the monthly fees for residential Services. Effective July 1, 2013 the fees are as follows:

<u>Residential Recyclers</u>		
Basic waste collection service fee	14.13	
Landfill fees	3.25	
Roll-out Cart (Mandatory)	1.50	
	<hr/>	\$18.88
 <u>Residential Non-Recyclers</u>		
Basic waste collection service fee	15.73	
Excessive waste disposal fee	5.35	
Landfill fees	3.25	
Roll-out Cart (Mandatory)	1.50	
	<hr/>	\$24.33
		County's Convenience Centers - \$1.75

per 32-gallon bag of waste.

Disposal fees for pickup trucks will be based upon a standard number of bags per the size of truck. Trailers are charged in the same manner. Small truckload (6 foot bed or less) disposing of loose waste will be considered ten (10) 32-gallon bags, and large truckload (up to 8 foot bed) disposing of loose waste will be considered fifteen (15) 32-gallon bags. Larger loads will be sent to Blackburn Landfill.

Included in the monthly fee, Republic will provide to each non-municipal residence that subscribes to municipal solid waste collection services, one (1) 96-gallon roll-out container for municipal solid waste collection. Additional containers may be rented to the subscriber at the rate of \$1.50 per month. For those subscribers that also subscribe to curbside recycling Services, Republic agrees to provide at no additional cost or rental fee, one (1) 96-gallon, roll-out container for single-stream recyclable collection. Additional containers may be rented to the subscriber at the rate of \$1.50 per month.

That portion of the total fee designated for landfill tipping fee may be adjusted by up to \$0.1167 for each one-dollar (\$1.00) change in the landfill tipping fee. The landfill tipping fee at the beginning of this Contract is \$33.00 per ton, which includes a State mandated \$2.00 per ton (the State has the authority to change this fee) North Carolina State Solid Waste Disposal Tax.

9. Republic agrees to make municipal solid waste collection Services available for all non-municipal industrial and commercial businesses in the County. Industrial and commercial businesses in the County retain the right to haul their own waste using their own equipment and personnel. Initial fees for industrial and commercial services will be in accordance with the Catawba County Front Loader Rates, identified as Exhibit 1 attached and incorporated herein by reference. The Front Loader Rates for various size containers and frequency of service consist of two parts, basic rate and landfill tipping fee, which is designated as "L.F.".

The landfill fee portion of the total fee shall be proportionately adjusted each time the County changes its landfill tipping fee. By way of example, if County's tipping fee is \$33 per ton, and Republic's landfill fee is \$7.26 for an eight cubic yard box once per month, then if County increases its tipping fee to \$35 per ton, Republic's landfill fee would be adjusted proportionately ($\$7.26/33 \times 35 = \7.70). Any adjustment in roll-off disposal fees by County will be passed through to the consumer without further adjustment.

10. Republic agrees to provide municipal solid waste collection services for Building Construction and Demolition businesses in the non-municipal areas of the County. Building Construction and Demolition Contractors retain the right to haul their own waste using their own equipment and personnel. Building Construction and Demolition customers will be offered fixed and variable rates for Roll-offs. Initial fees for Building Construction and Demolition services will be according to the Catawba County Roll-off Rates, identified as Exhibit 2 attached and incorporated herein by reference.

11. Republic will operate the County's Convenience Centers, (hereinafter "Centers"), for Municipal Solid Waste and Recycling Commodity Collection as follows:

- a. Currently, there are five (5) Centers located in Catawba County. County provides the landfill to which Republic transports the solid waste.
- b. Republic will maintain each Center including buildings, land, gravel, paving, roadways, fences, lighting, and signage.
- c. County will approve fees and operating hours. Any change in fees must be in accordance with Paragraph 6.
- d. Republic will provide all equipment and personnel for Centers' operations, as well as transportation services for all items collected at the Centers.

- e. Republic will provide roadside litter collection 600 feet along the roadway in each direction from the entrance to each Center or to the nearest intersection, whichever is greater.
- f. Republic will pay County monthly the then current solid waste tipping fee (as of the effective date of this Agreement \$33) for municipal solid waste collected at the Centers and will transport the municipal solid waste to the County's landfill. Upon being placed in the containers at the Centers, title to the municipal solid waste and recyclable commodities shall be vested in Republic. Recyclable materials will be transported by Republic to Republic's material recovery facility for processing and marketing.
- g. The fees collected at the Centers will be retained by Republic.

County retains the right to periodically review the Convenience Center operations, and retains the exclusive right to close or relocate any Center at its sole discretion. If the changes should result in any additional costs or savings to Republic, the County and Republic agree to negotiate, in good faith, an equitable change to the current fees.

12. Republic will provide a yard waste collection service to include small woody waste on an on-call basis for a fee of \$2.00 per 32-gallon bag collected with minimum of (10) bags, per service call. Yard waste shall be handled in accordance with NCGS 130A-309.10 and shall be delivered to the County's EcoComplex. Bags must be biodegradable.

13. Republic will provide Christmas tree and other natural decorations collection at no cost to residential customers, to be collected by a separate load, during the regularly scheduled solid waste collection day for a period of approximately four (4) weeks after December 25 of each year. Exact dates will be determined annually prior to County publicizing the Service. Christmas trees and other natural decorations are considered yard waste and shall be handled in accordance with NCGS 130A-309.10 and shall be delivered to the County's EcoComplex.

14. Republic acknowledges County is developing a woody biomass energy facility; thus, woody biomass collected in County must be delivered to the County's EcoComplex for energy conversion or recycling as long as the facility is open and in operation.

15. Republic will provide bulky waste; i.e., furniture, chairs, mattresses, etc., and white goods; i.e., major or domestic appliance, collection service on an on-call basis for a fee of \$35.00 per pickup load. Twice a year, to coincide with Litter Sweep Week, Republic will provide white goods collection at no charge to residential customers who request such collection at any time during Litter Sweep Week. All bulky waste and white goods shall be delivered to the County's EcoComplex.

16. Republic agrees to up-fit and/or convert its existing MRF to a single-stream recyclable collection facility on or before July 1, 2014, at which time it shall be fully functional as a single-stream recyclable collection facility.

17. Republic agrees to provide Services to those entities that are required under the Regulation of Alcoholic Beverages to recycle beverage containers in accordance with NCGS18B-1006.1, the ABC Bottle Bill.

18. Republic agrees to own and operate a single-stream MRF with the capability to process and market all materials that are recyclable, listed below in section (e) of this paragraph, and any future recyclables where marketable and/or mandated by any federal, state, county or local law, and to provide and operate the following recycling programs/activities:

- a. A recycling education facility in the MRF, which will be available to school classes, civic clubs and other organizations to view the MRF operation and learn the need for recycling and how to properly prepare, and separate materials.
- b. A buy-back activity in the MRF.
- c. A program to collect old corrugated cardboard from industrial and commercial businesses for recycling.
- d. An office and mixed paper collection program to all business, industrial customers and schools in the County, by providing collection and storage bins to program participants, together with scheduled collection service and pay for recycled commodities at market rates, or as otherwise agreed between Republic and the consumer.
- e. By way of illustration but not limitation Recyclable Commodities include:
 - i. Aluminum and metal cans
 - ii. Glass bottles & jars (all colors)
 - iii. ABC beverage containers
 - iv. Newspapers including inserts, magazines, phone books and paperback books
 - v. Office paper and other mixed paper including colored paper, envelopes and junk mail
 - vi. Plastic bottles and jugs
 - vii. Cardboard including old corrugated cardboard (OCC)
- f. As of the effective date of this Agreement, Republic will expand recyclable commodities with the implementation of single-stream recycling to include, but not be limited to, the following:
 - i. Wide-mouth plastic containers
 - ii. Rigid plastics
 - iii. Empty aerosol cans
 - iv. Milk and juice cartons and boxes
 - v. Cereal and other food boxes that are free of food debris

Note: Organic waste will not be considered a recyclable commodity under this Agreement, and Republic agrees not to remove any organic waste from the waste stream, unless County implements pursuant to Paragraph 24.

19. Republic will provide containers and collection services for up to six (6) County selected events at no charge. The County retains the right to stop, replace, or add events within the agreed upon limits.

20. Republic will maintain a material tracking and accounting system to segregate recycled commodities that come from Catawba County and those that originate outside the County and provide a monthly report to County. County may audit the accounting system as often as the County deems appropriate. Any audit by County cannot interfere with normal business operations of the facility. County will assume the cost of such audits.

21. Republic will provide reasonable collection of municipal solid waste debris caused by Federal Emergency Management Agency (FEMA) declared emergencies, if requested by County. Republic acknowledges that County may be contractually bound to another vendor for "storm" debris collection and transport. Any action must be administered in accordance with County Emergency Management. Any failure or delay in performance by Republic under this Agreement due to contingencies beyond a party's reasonable control, including, but not limited to, strikes, riots, terrorist acts, compliance with applicable laws or governmental orders, fires, bad weather and acts of God, shall not constitute a breach of this Agreement, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Agreement during the term of such event and for a reasonable time thereafter.

22. Republic will provide government document shredding and collection services to all existing and future County owned facilities, including all public schools and Catawba Valley Community College, as well as agents of County performing County business, at no cost.
23. Republic will provide complimentary municipal solid waste collection and recycling services to all County government facilities, existing or future, at no cost and provide all containers and/or dumpsters for same at no cost.
24. County reserves the right to develop and implement an organic waste collection system in the future located at the EcoComplex and Republic agrees to make organic waste collection services available for all non-municipal residential, commercial, businesses, public schools, community college, hospitals, etc. in the County. Fees will be negotiated prior to the implementation of these services, and Republic agrees to deliver organic waste to County designated site(s).
25. Republic shall maintain all existing facilities located in Catawba County in the current condition or improved including, Republic Services corporate office located on Commerce Street SW, Republic Services general operations facility located on Section House Road, and the MRF located on Somerset Drive NW. If Republic determines that additional facilities are needed to perform Services according to this Agreement, Republic agrees they will be located within Catawba County.
26. Republic shall use fuel efficient, environmentally sensitive vehicles and equipment in performing the Services under this Agreement.
27. Republic shall list and title all business property, equipment, and vehicles required to provide Services within Catawba County with the Catawba County Tax Department annually during the month of January or as otherwise required by law and will pay all bills on time.
28. The license granted to Republic shall be effective July 1, 2013, through June 30, 2024, unless earlier terminated as specified in Chapter 32 of the Catawba County Code entitled "Solid Waste" or pursuant to mutual written agreement. By mutual consent, the parties may extend this Agreement for up to four (4) years.
29. All terms and conditions of the Ordinance and any amendment that may be enacted thereto are considered material and failure to perform any of the conditions by Republic shall be considered a breach of this Agreement. Should Republic fail to perform any of the terms or conditions, County shall have the right to terminate the Agreement following procedures outlined in the "Solid Waste Ordinance" of Catawba County as set forth in Chapter 32 of the Catawba County Code.
30. Republic shall indemnify and save harmless County, its Board of Commissioners, employees, agents and representatives from any and all liabilities and claims of every kind, including reasonable attorney's fees, to which County may be subjected to on account of performance under this Agreement, loss, destruction or damage to property, or on account of injury to or death of persons, to the extent caused by the negligence or willful misconduct of Republic in the performance of this Agreement. Republic shall be responsible for filing complaints, temporary restraining orders or injunctions for any entity believed to be in violation of the franchise ordinance. County will cooperate as necessary. The provisions of this paragraph shall not be applicable to loss or damage caused solely by the negligent act or omission of County or its employees.
31. Republic shall maintain liability insurance in accordance with County Code. By July 1 of each year, Republic must submit proof of insurance to County.

32. Republic can neither assign nor sublet any rights or obligations under this Agreement without the written consent of County, which consent the County will not unreasonably withhold. Any attempted assignment shall be null and void, and will authorize County, at its discretion, to terminate this Agreement.

33. In the event of a change in ownership of Republic involving a sale of more than fifty-one percent (51%) of the common stock to shareholders other than current Republic shareholder(s) or any affiliates of Republic, or in the event of a merger of Republic with another company or entity, where Republic is not the surviving entity, Republic must notify the County in writing as far advance as practical of such sale or merger. The written consent of the County to such sale or merger shall be required and if not given, County shall have the option to terminate this Agreement. Such consent shall not be unreasonably withheld. In the event of a change in ownership the new owners shall be bound by the terms of this Agreement. If the County does not approve the change in ownership and elects to terminate this Agreement, Republic and the new ownership shall be obligated to the abide by the terms of this Agreement for a period of up to twelve months at the discretion of the County.

34. Republic is responsible for filing complaints, TROs or injunctions for an entity believed to be in violation of the franchise ordinance. County will cooperate as necessary.

IN WITNESS WHEREOF the parties have executed this Agreement in duplicate originals, the day and year first above written.

NORTH CAROLINA

SOLID WASTE DISPOSAL AGREEMENT

CATAWBA COUNTY

This Agreement, effective the _____ day of _____, 2013 by and between **CATAWBA COUNTY**, (hereinafter "County") and **REPUBLIC SERVICES OF NORTH CAROLINA, LLC**, (hereinafter "Republic"):

WHEREAS, County owns and operates a landfill located in Catawba County, North Carolina; and

WHEREAS, Republic is a provider of solid waste collection and transportation services in Catawba County and desires to dispose of all solid waste collected within the County at County's Landfill; and

WHEREAS, County desires to have all waste collected by Republic from Catawba County delivered to County's landfill and/or County's EcoComplex; and

WHEREAS, at regularly scheduled public meetings, held January 22, 2013 and February 4, 2013, the Board of Commissioners adopted Ordinance No. 2013-_____ which authorizes a Solid Waste Management Franchise Agreement with Republic; and

NOW, THEREFORE, in consideration of mutual covenants and conditions herein contained, Republic and County agree as follows:

1. Definitions. For the purpose of this Agreement, the following terms shall have the meanings set forth below:
 - a. "Agreement" means this Agreement between Republic and the County, as modified, supplemented or restated from time to time.
 - b. "Effective Date" means July 1, 2013.

c. "Force Majeure" means any event relied upon by County as justification for delay in or excuse from complying with any obligation required of County under this Agreement, which event is beyond the control of County or its agents relying thereon, including, without limitation: (i) an act of God, landslide, lightning, earthquake, fire, explosion, storm, flood, or similar occurrence; (ii) any act of any federal, state, county or local court, administrative agency or governmental office or body that stays, invalidates, or otherwise affects this Agreement with respect to the disposal of Waste; (iii) the denial, loss, suspension, expiration, termination or failure of renewal of any permit, license or other governmental approval required to dispose of Waste; unless same is caused by the negligent act or omission of County; (iv) the adoption or change (including a change in interpretation or enforcement) of any federal, state, county, or local law, rule, permit, regulation or ordinance after the Effective Date hereof, applicable to the obligations hereunder, including, without limitation such changes that have a substantial, material and adverse effect on the cost of performing the contractual obligations herein; (v) the institution of a legal or administrative action, or similar proceeding, by any person or entity which delays or prevents any aspect of the disposal of Waste.

d. "Hazardous Waste" means waste defined as, or of a character or in sufficient quantity to be defined as a "hazardous waste" by the Resource Conservation and Recovery Act, as amended, the laws of the State of North Carolina or any rules or regulations with respect thereto, or any reportable quantity of a "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any rules or regulations with respect thereto, including any waste whose storage, treatment, incineration or disposal requires a special license or permit from an agency of the federal government or State of North Carolina. Hazardous Waste also includes any substance that is, after the Effective Date of this Agreement, deemed hazardous by any judicial or governmental entity, body or agency having jurisdiction to make the determination.

e. "Landfill" means the Blackburn Landfill, located within, and operated by the County on and before the Effective Date hereof.

f. "Ton" means 2,000 pounds.

g. "Unacceptable Waste" means highly flammable substances, hazardous waste, liquid wastes, certain pathological and biological wastes, explosives, radioactive materials, and other materials deemed by State and Federal law, or in the reasonable discretion of the County, to be dangerous or threatening to the environment.

h. "Waste" means any and all non-hazardous solid waste delivered to the landfill by Republic.

2. Term. Unless earlier terminated pursuant to Section 5 below, the term of this Agreement shall commence on the Effective Date, and shall remain in force until June 30, 2024. This Agreement may be renewed by mutual written agreement of both parties.

3. Disposal Fees.

3.01 Republic shall pay County disposal fees in accordance with this Agreement, including attached Exhibits for the disposal of waste at the landfill, plus any federal or state taxes, fees or assessments that are levied on County with respect to the acceptance and disposal of Waste. Republic acknowledges that the disposal rate set forth herein may be adjusted from time to time at the discretion of County.

3.02 County shall give Republic at least sixty (60) days advance notice of any change in County fees.

3.03 County shall send Republic a monthly invoice for the disposal fees incurred during the previous month. Republic shall pay county the full amount within thirty (30) days of receipt of invoice.

3.04 In the event that (i) any Waste requires special handling or management due to its composition or volume, or (ii) County agrees to dispose of any Unacceptable Waste, Republic and the County shall determine in advance, on a case-by-case basis, the charge to Republic for County's disposal of such wastes. Payment for such disposal shall be upon the same terms as the payment of other disposal fees.

4. Delivery and Acceptance of Waste.

4.01 Republic agrees to deliver to the Landfill all of the Waste it collects from within Catawba County including within the incorporated municipalities. Republic understands that all applicable federal, state and local laws and ordinances pertaining to exclusive franchise contracts, and hereby acknowledges that upon advice of its own legal counsel, this Agreement does not violate any flow control laws or ordinances, nor is it in any way offensive to the free flow of interstate commerce.

4.02 County shall have the right to weigh all vehicles delivering Waste to the Landfill. At any time, County may confirm the tare weight of any vehicle delivering Waste to the Landfill by or on behalf of Republic.

4.03 Republic acknowledges that County intends to reject waste that, in County's reasonable determination, would be in violation of the Landfill's then existing licenses or permits or would result in a violation of applicable federal, state or local laws, regulations or ordinances.

4.04 Ownership of Waste delivered to the Landfill by or on behalf of Republic shall pass to and be accepted by County when the vehicle transporting the Waste is fully unloaded at the Landfill. Ownership of Unacceptable Waste delivered to the Landfill by or on behalf of Republic shall not pass to the County at any time unless County agrees in advance to accept such Unacceptable Waste.

4.05 County may detain and inspect the contents of all vehicles owned or operated by Republic that are delivering Waste to the Landfill. Republic agrees to monitor and inspect on a regular basis the contents of its vehicles in order to ensure that the Waste being delivered to the Landfill contains no Unacceptable Waste.

4.06 Republic shall not deliver any Unacceptable Waste to the Landfill. If any Unacceptable Waste is unintentionally delivered by or on behalf of Republic, County shall have the right to refuse or reject such waste, or, if not detected prior to it being deposited at the Landfill, County may remove such waste and assure its proper disposal, all at Republic expense, which expense Republic agrees to promptly pay upon presentation by County of an invoice setting forth the costs in reasonable detail.

4.07 If County should decline to accept any waste due to its special handling requirements or unacceptable nature, Republic shall have the right to dispose of such waste at another facility.

4.08 County shall not be responsible for the transportation of Waste to the Landfill. County shall not be responsible for the transportation or redelivery to Republic, or elsewhere, of any Waste, including without limitation Unacceptable Waste, to the Landfill by or on behalf of Republic.

5. Termination. County may terminate this Agreement upon (i) any breach or default of this Agreement by Republic or (ii) an event of Force Majeure that continues unabated for a period of sixty (60) days and renders County unable, wholly or in part, to effectively or efficiently carry out any significant portion of its obligations under this Agreement or by mutual written consent of both parties.

6. Representations and Warranties of Republic. Republic represents and warrants to County as follows:

6.01 Republic has full legal right, power and authority to enter into and to fully and timely perform its obligation under this Agreement;

6.02 Republic duly authorizes, executes and delivers this Agreement, and acknowledges that this Agreement constitutes a valid and legally binding obligation of Republic.

6.03 Republic has obtained all necessary licenses and permits required to operate solid waste transportation vehicles in order to deliver Waste to the Landfill.

7. Indemnification.

7.01 Republic agrees to indemnify and save harmless County, its Board of Commissioners, its agents, employees and attorneys from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including cost of defense, settlement and reasonable attorney's fees)("Indemnified Costs"), caused by or resulting from any negligent or willful act or omission of Republic,

its agents or employees in connection with this Agreement or resulting from a breach by Republic of any of the agreements, representations, or warranties of Republic contained in this Agreement. This indemnity obligation of Republic under this Section shall survive the expiration or termination of this Agreement subject to any applicable statute of limitation.

7.02 County agrees to indemnify and save harmless Republic, its officers, directors, shareholders, agents, employees and attorneys from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including cost of defense, settlement and reasonable attorney's fees)("Indemnified Costs"), caused by or resulting from any negligent or willful act or omission of County, its agents or employees in connection with this Agreement or resulting from a breach by County of any of the agreements, representations, or warranties of County contained in this Agreement. This indemnity obligation of County under this Section shall survive the expiration or termination of this Agreement subject to any applicable statute of limitation.

8. Notices. All notices or other communications to be given hereunder shall be in writing and shall be by registered or certified United States mail, return receipt requested, properly addresses as follows:

To the County: Catawba County
Post Office Box 389
Newton, North Carolina 28658
Attention: Director of Utilities and Engineering

To Republic: Republic
Post Office Box 2943
Hickory, North Carolina 28603
Attention: Drew Isenhour

Change of address by either party shall be by notice given to the other in the same manner as above specified. Any notice or other communication under the Agreement shall be deemed given upon actual delivery as shown by the return receipt.

9. Miscellaneous. This Agreement and the Solid Waste Management Franchise Agreement, effective July 1, 2013, sets forth the entire agreement and understanding of the parties, and supersedes all arrangements, prior agreements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of either party hereto. There are no restrictions, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective subsidiaries, successors and assigns; provided, however, that no party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted the waiver. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that any provision may be invalid or unenforceable in whole or in part. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina, venue in Catawba County. All warranties and indemnification contained herein shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties execute this Agreement as the date first above written.

- 10. Other Items of Business: None.
- 11. Attorney's Report: None.

12. Manager's Report: County Manager J. Thomas Lundy requested the Board consider moving into Closed Session pursuant to North Carolina General Statute 143-318.11(a)(3) and (6) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body and to consider the qualifications, competence, performance, character, fitness, conditions of appointment or conditions of initial employment of an individual public officer or employee. He did not anticipate any action upon return to open session. Commissioner Hunsucker made a motion to move into closed session at 10:10 a.m. The motion carried unanimously.
13. Adjournment. The Board returned to open session at 11:35 a.m. No action was taken. Commissioner Hunsucker made a motion to adjourn which carried unanimously.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk