

Regular Session, March 15, 2010, 7:00 p.m.
Catawba County Board of Commissioners

Appointments

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Juvenile Crime Prevention Council	531	03/15/10

CDBG

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Criminal Justice Partnership Program (CJPP)

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Duke Power (Duke Energy Carolinas, LLC)

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Google

Resolution in support of Google Test Site Effort	535	03/15/10
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The Catawba County Board of Commissioners met in regular session on Monday, March 15, 2010 at 7:00 p.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse in Newton, North Carolina.

Present were Chair Katherine W. Barnes and Commissioners Dan Hunsucker, Glenn E. Barger and Barbara G. Beatty.

Vice-Chair Lynn M. Lail was absent.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Dewey Harris, County Attorney Debra Bechtel, Deputy County Attorney Anne Marie Pease and County Clerk Barbara Morris. Assistant County Manager Lee Worsley was absent.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m. She then asked for a moment of silence in remembrance of former commissioner Gretchen Peed who had died the previous week and for Marine Gunnery Sgt Chris Eckerd who lost his life in service for his Country.
2. Commissioner Barbara G. Beatty led the Pledge of Allegiance to the Flag.
3. Commissioner Dan A. Hunsucker offered the invocation.
4. Commissioner Glenn E. Barger made a motion to approve the minutes from the Regular Meeting and Closed Session of February 15, 2010. The motion carried unanimously. At this time, Chair Barnes noted that Vice-Chair Lynn M. Lail was absent.
5. Recognition of Special Guests: Chair Barnes welcomed candidates Terry Schwedler, Carolyn Connor and Coy Reid. She also recognized NAACP President Jerry McCombs.
6. Public Comments for Items not on the Agenda:
Mr. Darrell Pegram spoke about plans for the Stallion Track Club (STC) to build a learning center with a 10,000 seat indoor arena and 30,000 seat outdoor stadium. The proposed facility would offer tutoring, mentoring and a computer lab for use by area children, as well as an indoor and outdoor track for field and track training and competition. The intent is to seek both federal and state grant funds to build the facility. The Stallion Track Club website states there are over 300 former athletes who have degrees and others who are doing positive things and can build a network that will be beneficial for all STC Alumni. The Board commended these efforts and wished Mr. Pegram well in this endeavor.
7. Appointments.
Commissioner Glenn Barger recommended the appointment of Rhonda Stikeleather for an unexpired term on the Community Service Block Grant Advisory Board. Ms. Stikeleather will replace Jennifer Shoemaker and her term will expire June 30, 2010. Commissioner Barger also recommended the reappointment of Sarah Greko for a third term and Diana Smith-Williams for a second term to this Advisory Board. Ms. Greko's term will expire February 28, 2013 and Ms. Smith-Williams' term will expire March 30, 2013. Chair Katherine W. Barnes recommended the appointment of the following persons to the Juvenile Crime Prevention Council: Valeree Adams for a first term to replace David Abernethy in the Department of Social Services category; Ed deTorres for a first term to replace Jennifer Fulkerson in the Juvenile Court Attorney category; Dr. Glenn Pickney for a first term to replace Pastor Donald Gray in the Minister category; Chief Don Brown to replace designee Captain Jay Jackson in the Police Chief category for an unexpired term and Dr. Lillie Cox to replace designee Lorraine Rohr for an unexpired term in the Hickory City Schools category. These terms are for two years and will expire for Ms. Adams, Mr. deTorres and Dr. Pickney on June 30, 2011 and on June 30, 2010 for unexpired terms filled by Chief Don Brown and Dr. Lillie Cox.

These recommendations came in the form of a motion and the motion carried unanimously.

8. Consent Agenda:
County Manager J. Thomas Lundy presented the following five items for Board consideration:
 - a. A request for the Board to approve a proposed application for a grant from the State of North Carolina for funding for the Criminal Justice Partnership Program (CJPP). The application is for \$122,789, the same amount that is in the current year's grant. CJPP provides treatment services that address those issues that maintain a criminal lifestyle for offenders. It seeks to decrease

criminal involvement and increase productive, socially acceptable behaviors. Through a detailed needs assessment, appropriate referrals, treatment services for substance abuse and cognitive skills, and transportation when needed, the program seeks to combine community-based legal sanctions and non-incarceration punishments with structured services. The grant will provide funds to serve approximately 75 people. Since July 1, 2009, 23 participants have successfully completed the program, and were diverted from jail and have increased their odds against recidivism. Other participants are continuing in the program, while 12 have been incarcerated. The program's successful completion rate is currently 66%, which far exceeds the statewide average rate of approximately 44%. The average daily cost of a participant in this program is \$15, while the approximate cost of local incarceration is \$45 and the cost of incarceration in the North Carolina Department of Corrections system is over \$80 per day. The CJPP Board approved the grant application prepared by Mental Health Partners.

b. A request for the Board to accept a \$16,403 Justice Assistance Grant (JAG) from the U.S. Department of Justice's Office of Justice Programs. There are no matching funds required for this award. It is 100% Federally funded. On June 15, 2009, the Board approved a joint application, with the City of Hickory, for this grant. These funds will be used to purchase 800 MHz radios for the Sheriff's Office's Patrol Unit. JAG funding is based on population and violent crime statistics, and allows local governments to support a broad range of activities to prevent and control crime, based on their own needs. The following appropriations apply:

SUPPLEMENTAL APPROPRIATION

Revenue

110-210050-620320 \$16,403
Justice Assistance Grant

Appropriation:

110-210050-870100 \$16,403
Small Tools & Minor Equipment

c. A request for the Board to adopt a resolution that authorizes the City of Hickory to issue pyrotechnics permits. Article 54, Chapter 14 of the North Carolina Statutes regulates the sale, manufacture and use, etc. of pyrotechnics. Under N.C. General Statute 14-413, the Board may issue permits for pyrotechnics use in connection with concerts or public exhibitions, such as fairs, carnivals, shows and public celebrations, provided other statutory conditions are met. This same statute provides that a board of county commissioners may authorize the governing body of any city in the county to issue these permits by adopting a resolution. That transfer of authority remains in effect until withdrawn by the board of commissioners by a subsequent resolution withdrawing the authority. On February 8, 2010, the City of Hickory made a request for this authority. The City's Fire Prevention Bureau in its Fire Marshal's Office will review any submitted applications to ensure compliance with various legal requirements, including proof of at least \$500,000 of insurance, confirmation that everyone involved in handling the pyrotechnics has completed State-mandated training, and a permit issued by the State Fire Marshal. The Hickory Fire Marshal's Office will make recommendations to the Hickory City Council, which will make decisions about authorizing permits. The following resolution applies:

RESOLUTION NO. 2010-

AUTHORITY FOR THE CITY OF HICKORY TO ISSUE PERMITS FOR PYROTECHNICS TO BE EXHIBITED

WHEREAS, NCGS 14-413, Permits For Use at Public Exhibitions, authorizes counties to issue permits for pyrotechnics use in connection with concerts or other public exhibitions; and

WHEREAS, NCGS 14-413(a1) provides a board of county commissioners may authorize the governing body of any city in the county to issue pyrotechnics permits; and

WHEREAS, should a county board of commissioners grant such authority to the city it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority; and

WHEREAS, the City of Hickory has requested the Catawba County Board of Commissioners grant the city the authority to issue pyrotechnics permits in accordance with the provisions of Article 54 of Chapter 14 within the City's corporate limits; and

WHEREAS, the City of Hickory Fire Prevention Bureau Fire Marshal's Office has the expertise to ensure the safety of its citizens and insure an applicant's compliance with Article 54 of Chapter 14.

NOW, THEREFORE, the Catawba County Board of Commissioners does hereby authorize the City of Hickory to issue pyrotechnics permits in accordance with Article 54, Chapter 14 of the North Carolina General Statutes.

This the 15th day of March, 2010.

d. A request for the Board to authorize Chair Barnes to execute a Right of Way Agreement for the construction, maintenance, and operation of an electrical power line and related conduits, apparatus, and appliances, either above ground or below ground, including transformers and service connections to serve the Biodiesel Research Facility at the County EcoComplex. This agreement is required by Duke Energy to provide electrical service to the facility. The Right of Way will encompass 15 feet on each side of a centerline of the electrical facilities for overhead lines, and 5 feet on each side of a centerline of the electrical facilities. The Right Of Way is also necessary for the County to sell electricity produced at the County EcoComplex to Duke Energy. A bid to construct the Biodiesel Research and White Goods Freon Recovery Facility was awarded on August 17, 2009 and construction is expected to be completed in August 2010. The following agreement applies:

Drawn By: TIM JONES
Project Description: OVERHEAD PRIMARY LINE TO SERVE
BIODIESEL R & D

STATE OF NORTH CAROLINA
COUNTY OF CATAWBA

RIGHT OF WAY AGREEMENT

KNOW ALL MEN BY THESE PRESENTS That CATAWBA COUNTY, hereinafter called "Grantor" (whether one or more), in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, does hereby grant unto DUKE ENERGY CAROLINAS LLC, and its successors and assigns, subsidiaries and divisions, hereinafter called "Grantee", the perpetual right, privilege and easement to go in and upon that certain land of Grantor,(hereinafter "premises") situated in said County and State property described as:

PARCEL ID 361803318190
3993 ROCKY FORD RD
DEED BOOK/PAGE: 1261/0110

and over and across said premises within a right-of-way strip (check applicable):

X having a width of 15 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate with poles, lighting fixtures, crossarms, wires, guys, anchors, cables, transformers and other apparatus and appliances overhead lines for the purpose of transporting electricity and/or providing lighting services and for the communications purposes of the Grantee and regulated telephone utilities and other telecommunications services. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto, to remove from the right-of-way strip, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines or other facilities or equipment and trees of any species that Grantee determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines or other facilities or equipment; to trim or remove and to keep trimmed or remove dead,

diseased, weak or leaning trees or limbs outside of the right-of-way strip which, in the opinion of the Grantee, might interfere with or fall upon the electric, lighting, telecommunications or other communications facilities within the right-of-way strip; and to install guy wires and anchors extending beyond the limits of the right-of-way strip.

X having a width of 5 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate underground lines and conduits with other apparatus and appliances, either above ground or below ground, to include transformers and service connections, for the purpose of transporting electricity, providing lighting services and for the communications and telecommunications purposes of Grantee and its licensees. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and to clear the land within the right-of-way strip and to keep it clear of trees, structures or other obstructions; and to clear that land outside the right-of-way strip within ten feet of the service door of any transformer or cabinet located within the right-of-way strip and to keep the area within ten feet of said door clear of trees, structures or other obstructions. Grantor, for itself and its successors and assigns, agrees to hold Grantee, its successors and assigns, harmless for replacement and/or repair of paving, landscaping and fences as a result of future system maintenance and repair. All underground facilities are to be installed in accordance with the provisions of Grantee's Underground Distribution Installment Plan NCUC Docket E-7, Sub 828, receipt of a copy of which is acknowledged by Grantor.

This right-of-way is given to permit the construction or modifications of facilities presently proposed. Facilities at other locations and future extensions of presently constructed facilities are not permitted by this agreement. The foregoing notwithstanding, Grantee may relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement.

IN WITNESS WHEREOF this instrument is executed on this ____ day of _____, _____

GRANTOR
CATAWBA COUNTY

e. A request for the Board to approve two tax refund requests totaling \$681.63 (Nick A. Miller and Joe & Mildred Teague). Records have been checked and these refunds verified; therefore, the Tax Collector asked for approval of the refund requests. Under North Carolina General Statute 105-381, a taxpayer who has paid taxes may request a refund in writing for an amount paid through error.

Chair Barnes asked if any Commissioner wished to have an item broken out of the Consent Agenda and none were requested. Commissioner Hunsucker made a motion to approve the consent agenda. The motion carried unanimously.

9. Departmental Reports.

A. Sheriff's Office:

Chief Deputy Coy Reid presented a request for the Board to adopt an ordinance prohibiting solicitation on streets, highways or rights-of-way in unincorporated areas of the county, to protect the safety of motorists and pedestrians. The Sheriff's Office has received an increasing number of calls from citizens concerned about individuals soliciting at intersections and from the side of the road. North Carolina General Statute 20-175(d) specifically authorizes local governments to enact ordinances prohibiting a person from soliciting from a roadway. Individuals who solicit from the road put themselves and the public at risk. Solicitation activity is a distraction for drivers, which can result in accidents causing injury to persons and property. This prohibition cannot apply to individuals engaged in the distribution of newspapers on the non-traveled portion of the road, except when those distribution activities impede the normal movement of traffic. This exception is not specified in the proposed ordinance, on the advice of the County Attorney who believes the exception will not stand up to a constitutional challenge. The ordinance would allow law enforcement to more effectively deal with this safety issue. Chair Barnes asked County Attorney Debra Bechtel to address

some of the safety issues and Ms. Bechtel discussed the distraction this type of solicitation caused for drivers. Commissioner Hunsucker made a motion to approve the ordinance and Chair Barnes noted that due to the absence of Vice-Chair Lail, the ordinance would require a second reading prior to adoption. This second reading will take place at the Board's April 5, 2010 meeting. The ordinance reads as follows:

ORDINANCE NO. 2010-01

BE IT ORDAINED that the Catawba County Code of Ordinances, Chapter 34, Streets, Sidewalks and Other Public Places, Article I, In General., Section 34-1 is hereby established to read as follows.

Sec. 34-1. Soliciting Prohibited.

(a) Soliciting or attempting to solicit from any street, highway, or right-of-way is prohibited. It shall be unlawful for any person to stand, sit, or loiter, in or on any street or highway, including the shoulders or median strip, or right-of-way on any such street or highway, but excluding sidewalks, while soliciting or attempting to solicit any employment, business, or contributions from the driver or occupants of any vehicle.

(b) Any person found to be in violation of Section 34-1 of this Article shall be guilty of a Class 3 misdemeanor and can be fined or imprisoned in accordance with Sec. 1-14 of the Catawba County Code. Each day any violation of this ordinance shall continue shall constitute a separate offense.

(Ord. No. 2010-01, 3-15-2010)

State law reference – NCGS 20-175.

B. Technology:

Chief Information Officer Terry Bledsoe came forward to request the Board adopt a resolution supporting a partnership between Caldwell County, the City of Lenoir, the City of Hickory and Catawba County that is working to win designation of the Hickory-Lenoir corridor as a test site for development by Google of a new ultra high speed broadband internet network. Mr. Bledsoe was accompanied by Kim Hudson, a consultant hired by the City of Hickory to assist in the effort for this partnership to be designated the Google test site. On February 10, 2010, Google announced it would build a gigabit fiber network in a community in the United States for a subscriber base of 50,000 to 500,000. Google is building this network as a test bed to study new ways of deploying fiber, new construction methods, and new technology. Google officials have said they hope to transform the community selected for the test site by spurring economic development, encouraging new applications, and fostering innovation. Catawba County has partnered with all of the county's municipalities, the City of Lenoir and Caldwell County to submit a joint proposal for the Google test network. The application process has a very short timeline, as it is due on March 26, 2010.

The high test speed will be a gigabit per second connection, more than 100 times faster than the current average home connection available in the area. The communities are confident that if Hickory/Lenoir is named as a test site for the ultra-fast network, the community would see significant economic growth, as it will open doors and be an attraction for local business to stay and also recruit more industries, creating more opportunity for all citizens and local governments.

County staff believes the application will be uniquely strong for several reasons. The Google datacenter in Lenoir would make it much easier for Google to connect the data network once it is installed. The area is one of only three communities with Google datacenters that meet the population requirement for a test center. Catawba County is home to three world class fiber optic manufacturers, which have all been supportive and active in the application process. The community has distinguished itself as a strong technology supporter with the recent announcement of the Apple datacenter and the previously mentioned Google datacenter. To support the partnership between local municipalities, the City of Lenoir and Caldwell County, each governing body is being asked to pass a resolution of support. Mr. Bledsoe indicated that approximately 2000 communities were applying for the development site and in response to Chair Barnes inquiry, it was not known when Google would announce the designation. Commissioner Barger made a motion to adopt the following resolution. The motion carried unanimously.

RESOLUTION NO. 2010-_____

RESOLUTION OF SUPPORT FOR GOOGLE

WHEREAS, Catawba County is committed to maintaining and enhancing the quality of life for its citizens and recognizes that supporting the Google Fiber to the Home and Business initiative will boost economic development for new and current businesses, in which adds to the quality of life for all; and

WHEREAS, the Hickory/Lenoir Google application includes municipalities and counties along the U.S. 321 corridor in Catawba and Caldwell Counties; and

WHEREAS, the intent of the Google project is to eliminate the bandwidth bottleneck so that Google can develop and test high speed network applications, and Google will open their network to any and all service providers who want access to a large bandwidth "pipe" to businesses and households; and

WHEREAS, the local governments in partnership with water, power, communication providers and more will assist Google with implementing the new infrastructure of a one gigabit per second connection, which is 100 times faster than the average current connection available in the area; and

WHEREAS, our community expects to see significant economic growth through participating with Google, as it will open doors and be an attraction for local business to stay and more businesses to move here which creates more opportunity for all citizens and local governments.

NOW, THEREFORE, BE IT RESOLVED that the Catawba County Board of Commissioners supports Google Fiber to the Home and Business initiative and is committed in concept to working with neighboring municipalities, counties, universities, colleges, businesses and industries to bring the ultra fast fiber network to our community.

Adopted this the 15th day of March, 2010.

C. Social Services:

Social Services Director John Eller presented the Board with an informational report on federal and state approval for the establishment in Catawba County of a subsidized employment program for persons who qualify under the criteria of the national Temporary Assistance to Needy Families (TANF) program. These funds are part of \$5 billion that federal lawmakers included in last year's stimulus package to help states offer basic or temporary assistance to families, including subsidized employment.

Twenty-three North Carolina counties, including Catawba, submitted proposals for this optional service and have been authorized to implement subsidized employment programs. To be eligible to participate in this program, a individual must qualify as TANF eligible (with a family income less than 200% of the poverty level, and/or active Work First participation). Social Services staff will make that determination. Social Services was notified on February 9, 2010 that Catawba County's proposal was approved. The TANF funds for subsidized employment are available until September 30, 2010, or until depleted. The funds will be allocated on a quarterly basis and spending rates will be monitored throughout each quarter. If necessary, a reallocation process will be established to ensure these funds are being fully utilized. Catawba County will receive \$90,000 for the first quarter of this grant and two additional quarterly allocations.

The purpose of Catawba County's proposal is to assist low-income citizens in becoming employed. Families that do not qualify for Work First cash assistance, but which have exhausted or are ineligible for unemployment benefits, may be eligible for TANF Subsidized Employment services if they meet the following criteria: 1) the family must have a dependent child in the home that meets the age, kinship, citizenship and immigrant rules of the Work First Family Assistance Program and 2) family total monthly gross income must be less than 200% of the poverty level, which is \$1,805

for a family of 1; \$2,428 for a family of 2; \$3,052 for a family of 3; \$3,675 for a family of 4; \$4,298 for a family of 5; \$4,922 for a family of 6 and \$5,545 for a family of 7. The County will contract with a local temporary employment agency to place TANF-eligible individuals in subsidized employment throughout County departments. The Work First case managers and supervisor will determine eligibility, and the Work First supervisor will support and supervise the contract with the temporary employment agency. No Board of Commissioners action was required for this item.

D. Utilities and Engineering:

Assistant Director of Utilities and Engineering Jack Chandler presented a request for the Board to adopt a resolution pertaining to the policies, procedures and plans to provide municipal water service to the Royal Heights Subdivision in the Advent Crossroads area, including a budget ordinance and budget revision and an administrative contract with the Western Piedmont Council of Governments. On September 21, 2009, the Board approved a resolution to submit an application for a 2010 Community Development Block Grant (CDBG) to the North Carolina Department of Commerce, Division of Community Assistance. The CDBG Program is designed to enable eligible local governments to install municipal public water and/or sewer line(s) with taps and connections to low to moderate-income households, which are defined as households at 80% or less of the median family income for the county or Metropolitan Statistical Area in which the residence is located.

On January 29, 2010, the County received notification of CDBG funding in the amount of \$308,500 to provide municipal water service to the Royal Heights Subdivision off Old Shelby Road in the Advent Crossroads area of western Catawba County. The grant will provide for approximately 2100 linear feet of water lines to serve 22 homes and provide 19 households with free taps and connections. The remaining three households are over the income limits for the grant and will be responsible for the cost of their taps and connections. The City of Hickory has verified adequate water availability and flow. This project will be a revenue sharing project under a contract between the County and the City of Hickory. A Request for Qualifications will be used to select an engineering firm to design the project. Commissioner Hunsucker made a motion to adopt a resolution pertaining to the policies, procedures and plans to provide municipal water service to the Royal Heights Subdivision in the Advent Crossroads area, including a budget ordinance and budget revision and an administrative contract with the Western Piedmont Council of Governments. The motion carried unanimously. The following appropriations, resolution, budget ordinance and agreement apply:

Appropriations

Revenue

415-430050-627000 \$308,500.

Community Development Block Grant

415-430050-690100 \$21,500.

Expenditures

415-431100-989100-21032 \$295,495

Royal Heights Subdivision Water

415-431100-849117-21032 \$31,005

Administration

415-431100-849122-21032 \$3,500

Planning

RESOLUTION #

CATAWBA COUNTY
POLICIES AND GUIDELINES FOR THE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, Catawba County has been awarded a Community Revitalization Grant Award for \$308,500; and

WHEREAS, Catawba County desires to adopt Community Development Program Policies and Guidelines; and

WHEREAS, The Community Development Office has created Community Development Program Policies and Guidelines;

NOW, THEREFORE, BE IT RESOLVED, Catawba County hereby adopts Community Development Program Policies and Guidelines as herein contained.

ORDINANCE#_____

**CATAWBA COUNTY'S PROJECT BUDGET ORDINANCE
FOR THE 2009 CDBG INFRASTRUCTURE ROYAL HEIGHTS CIRCLE WATER GRANT**

Be it ordained by the County Commissioners of Catawba County that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1. The project authorized is the Community Development Project described in the work statement contained in the Grant Agreement (#09-C-2018) between this unit and the Department of Commerce. This project is more familiarly known as the 2009 Catawba County Infrastructure Royal Heights Circle Water Grant.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the Department of Commerce, and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project.

<u>Revenues</u>	
Community Development Block Grant	\$ 308,500

Section 4. The following amounts are appropriated for the project:

<u>Expenditures</u>	
Water Improvements(CDBG)	\$ 273,995
Planning(CDBG)	3,500
Administration(CDBG)	<u>31,005</u>
	\$ 308,500

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and federal and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this Board.

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the _____ day of _____, 2010.

AGREEMENT BETWEEN THE
WESTERN PIEDMONT COUNCIL OF GOVERNMENTS AND
CATAWBA COUNTY
FOR THE PROVISION OF
GRANT MANAGEMENT ASSISTANCE:
CATAWBA COUNTY INFRASTRUCTURE ROYAL HEIGHTS CIRCLE
WATER CDBG PROJECT
March 15, 2010 –March 15, 2012

This AGREEMENT, entered into on this the _____ day of March, 2010, by and between the Western Piedmont Council of Governments (hereinafter referred to as the "Planning Agency") and Catawba County, North Carolina (hereinafter referred to as the "Local Government"); WITNESSETH THAT:

WHEREAS, the Planning Agency is empowered to provide technical assistance by the North Carolina General Statutes and by resolution passed by the Planning Agency on May 17, 1972. Technical assistance shall consist of the provision of services as described in Attachment A, which is herein made a part of this Contract;

WHEREAS, the Local Government has requested the Planning Agency to provide such technical assistance to the Local Government; and

WHEREAS, the Planning Agency desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Personnel.** That during the period of this Contract, the Planning Agency will furnish the necessary trained personnel to the Local Government.
2. **Travel/Printing.** The Local Government will pay for expenses related to conferences, conventions, seminars, local travel, etc. of the personnel when the Local Government requests or approves travel related to the Local Government's planning program, or if it is beneficial to both parties, the costs will be shared on an agreed-upon ratio. Any travel expenses will be in conformance with the County's travel policy, County Code and must be pre-approved.

The Local Government will also pay for expenses related to printing of report(s), mailings to advisory boards, and other costs not related to normal travel and staffing costs associated with personnel furnished by the Planning Agency, provided any costs are consistent with Catawba County Code and/or policies.

3. **Compensation.**
Grant Administration

The Local Government will pay the Planning Agency an amount not to exceed \$30,000 (thirty thousand) for the satisfactory performance of all services related to administration of the project as defined in the attached Scope of Services. Planning Agency personnel will keep an accurate record of time spent, which will serve as the basis for the amount charged to the Local Government per

month. The Local Government will reimburse the Planning Agency monthly at a rate per hour for each of the personnel involved, which includes the salary, fringe benefits, travel and indirect costs, plus travel and other approved expenses.

Planning

The Local Government will pay the Planning Agency a flat fee of \$3,500 (three thousand five hundred dollars), to be paid in one lump sum for work associated with application development and the environmental review.

All other costs associated with the administration of the CDBG grant will be expended from the grant administration allowance budgeted for the Local Government. Such expenses shall not be incurred without prior approval of the Local Government.

It is expressly understood and agreed that total compensation shall not exceed the maximum sum specified without prior approval of both agencies.

Total Compensation

The total compensation for grant development and administration associated with the infrastructure water grant will not exceed \$33,500.

4. **Termination/Modifications.** The Local Government may terminate this Contract by giving the Planning Agency a thirty-day written notice. Furthermore, if there is a need to amend the proposal outlined in Attachment A, either party may do so with the written approval of the other.

5. **Time of Performance.** The Planning Agency shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning March 15, 2010 and ending March 15, 2012.

6. **Key Personnel.** The Planning Agency shall not substitute key personnel assigned to the performance of this contract without prior written approval by the County and the grantor agency, the North Carolina Department of Commerce, Division of Community Assistance. Individuals designated as key personnel for purposes of this contract are those specified in the Planning Agency's proposal.

7. **Subcontracting.** Work proposed to be performed under this contract by the Planning Agency or its employees shall not be subcontracted without prior written approval by the Agency's Contract Administrator and the grantor agency, the North Carolina Department of Commerce, Division of Community Assistance. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.

8. **Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials.** No member, officer, or employee of the Planning Agency or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Planning Agency shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

9. **Nondiscrimination Clause.** No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of,

or be subjected to discrimination with any program or activity funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.

10. **Age Discrimination Act of 1975, as amended.** No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

11. **Section 504, Rehabilitation Act of 1973, as amended.** No qualified disabled person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

12. **Access to Records and Record Retainage.** All official project records and documents must be maintained during the operation of this project and for a period of three years following closeout, in compliance with 15 NCAC 13L Rule .0911, Recordkeeping. The NC Department of Economic and Community Development, US Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Planning Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions in compliance with 15 NCAC 13L Rule .0911, Recordkeeping.

13. **Liquidated Damages Clause.** If the project fails to be carried out within the time frame outlined in the administrative proposal due to activities attributed to the Planning Agency, the Local Government may assess the Planning Agency a sum in the amount of \$100 per week for any subsequent weeks until completion.

14. **Termination of Agreement for Cause.** If, through any cause, the Planning Agency shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the Local Government shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the Local Government, become its property, and the Planning Agency shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.

15. **Grantee Assurances.** In the performance of this Agreement, the Planning Agency shall comply with all applicable federal rules and procedures outlined on the attached pages as E.O. 11246 Clause, the Section 3 Clause and Lobbying Clause (Attachments B,C and D).

16. **Liability:** The Grant Administrator understands and warrants that it will defend any liability arising from this Agreement and that the grantee accepts no liability, in so far as such funds are expended in accordance with this Agreement.

The Grant Administrator agrees to repay to the Division of Community Assistance funds equal to the amount of CDBG funds provided to the Grant Administrator by the Grantee which the Division of Community Assistance has determined that its agents or assigns have caused to have been advanced and/or expended in violation of this Agreement and/or any federal, state or local laws or policies governing the use of CDBG funds. This provision also applies to any Funds considered to be program income generated by this Agreement. The Division of Community Assistance is the sole arbiter in all matters concerning the eligibility of costs and interpretation of the provisions of law, statute, and policy as well as terms and conditions.

March 15, 2010, MB#51

IN WITNESS WHEREOF, the Planning Agency and the Local Government have executed this Agreement as of the date first above written.

10. Other Items of Business: None.
11. Attorneys' Report: None.
12. Manager's Report: None.
13. Adjournment: Chair Barnes adjourned the meeting at 8:00 p.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk