

Special Joint Meeting, September 17, 2012, 5:30 p.m.
Catawba County Board of Commissioners

The Catawba County Board of Commissioners met in a special joint session with the Town of Catawba, the City of Conover, the City of Hickory and the Town of Maiden on Monday, September 17, 2012 at 5:30 p.m. in Conover Station in Conover.

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

Also present were County Manager J. Thomas Lundy, Assistant County Manager Dewey Harris, Assistant County Attorney Jodie Stewart, Finance Director Rodney Miller and County Clerk Barbara Morris. Also present was Economic Development Corporation President Scott Millar.

1. Commissioner Randy Isenhower called the Catawba County Board of Commissioners to order at 5:30 p.m.
Mayor Vance Reading called the Town of Catawba Council to order.
Mayor Lee Moritz called the City of Conover Council to order.
Mayor Rudy Wright called the City of Hickory Council to order.
Mayor Robert Smyre called the Town of Maiden Council to order.

Chair Barnes joined the meeting at 5:40 p.m.

2. Reverend Don Bledsoe offered the invocation.
3. Mayor Smyre led the Pledge of Allegiance.
4. Catawba County Economic Development President Scott Millar presented proposal for a joint development agreement by all entities listed above to acquire, develop and operate a business park on a 70 acre tract of land off of US Interstate 40, Exit 132 at Highway 16 in Conover.
5. Public Hearing:
Each entity opened the public hearing. Chair Barnes opened the hearing for Catawba County Board of Commissioners.

Two individuals came forward to speak:

John Bumgarner from Conover – (came forward to speak twice) inquired as to cost of land.

Beth Henry from Charlotte – questioned the impact of data centers on electricity costs – would more power plants be needed by encouraging data centers in the area?

EDC President Scott Millar responded that the land was acquired at a cost of \$13,500 per acre. He responded that the manufacturing that had left the area used significant power and that power was now available for data center use and the power capability of this area was a draw for this type of business.

The entities each closed the public hearing.

6. Each entity moved to adopt both the Interlocal Agreement for a Business Park and the Agreement for Loan Payback between the entities. Commissioner Isenhower moved for Catawba County to enter into the Interlocal Agreement for a Business Park; the motion carried unanimously. Commissioner Dan Hunsucker moved for Catawba County to enter into the Interlocal Agreement on Loan Payback. The motion carried unanimously.
7. Entities moved to adjourn the meeting. Commissioner Barbara Beatty moved to adjourn the Catawba County Board of Commissioners at 6:05 p.m. The motion carried unanimously.

The following contacts apply:

NORTH CAROLINA

CATAWBA COUNTY

**INTERLOCAL AGREEMENT FOR A
BUSINESS PARK FOR ECONOMIC DEVELOPMENT**

THIS INTERLOCAL AGREEMENT as authorized by North Carolina General Statute 158-7.1 effective the 17th day of September, 2012, (the "Agreement"), by and among **Catawba County, North Carolina**, a public body politic and political subdivision of the State of North Carolina, **the Cities of Conover and Hickory, and the Towns of Catawba and Maiden**, all such cities and towns being municipal corporations located in Catawba County, North Carolina all hereinafter referred to as "Municipalities" or "Governmental Partners" or "Parties" and "Host City" for Conover, and **Catawba County Property Development Corporation**, a North Carolina non-profit corporation, hereinafter referred to as "Corporation" or as one of the Parties.

WHEREAS, the Governmental Partners desire to develop a Business Park for economic development and job creation located in Conover, NC; and

WHEREAS, the Governmental Partners have a common interest in undertaking economic development actions for quality jobs and increased tax base; and

WHEREAS, a joint effort to acquire land and develop this business park is key to attracting employers; and

WHEREAS, a road and other Improvements will be required; and

WHEREAS, the Governmental Partners conducted a public hearing as required by NC General Statute 158-7.1 prior to the adoption of this agreement.

NOW, THEREFORE, in consideration of the mutual obligations and benefits acknowledged by each of the parties and the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, the Parties agree to the following.

ARTICLE I - PURPOSE AND ORGANIZATION

1. The Parties will cooperate in the acquisition, development, and operation of a business park ("Business Park" or "Park") on the tract of land comprising approximately 70 acres and known generally as the "ncDataCampus" off of US Interstate I-40, Exit 132 at NC HWY 16 in Conover, and more particularly described on Exhibit "A" attached hereto (the "Property"). Title to Property may be held by one or more of the Governmental Partners, or such other entity that the Governmental Partners designate by a decision of the Managing Entity, and, at this time, the Governmental Partners designate the Corporation to hold title to the Property under the terms and conditions provided for in general by the Agreement, and in particular, Article XVI.

2. **Managing Entity.** The Managing Entity shall consist of each of the Governmental Partner's Managers. Its duties are to develop the Park and its operations. The Managing Entity shall organize itself and operate under such Rules of Procedure, notice, time and place of meeting, as it shall adopt by a 77% vote (based on shares) unless otherwise provided herein. The Managing Entity is deemed to be a "public body" as defined by NCGS 143-318.9 and is subject to the open meetings laws of North Carolina.

3. **Operations Team.** The Managing Entity shall name or organize, from time to time, an Operations Team charged with looking after the day to day operations of the Business Park. The Catawba County Economic Development Corporation ("EDC") is designated as the initial Operations Team.

4. **Marketing Arm.** The EDC is designated as the marketing arm of the Business Park and may also be designated as the Operations Team. The cost of marketing will be provided for in the ordinary course of business of the EDC's budget process. EDC may have a separate project_budget for marketing the Park.

- 5. The Managing Entity may develop a Master Plan for the park.
- 6. Host City. The Property is located in Conover and as such the City of Conover is designated as the Host City with the various duties, obligations, privileges, and rights of reimbursement, as provided for herein.
- 7. Park Development Costs. Park Development Costs are the soft and hard costs involved with the development of the Park including, without limitation, professional fees, closing costs, land acquisition, and permanent and/or temporary access connected with developing the Property into a business park and may include cost of Improvements whether located on or off site. Park Development Costs may also include reimbursement to the Host City and the EDC for expenditures made prior to the effective date of this agreement. Such Host City and EDC reimbursements must be documented and approved as eligible for reimbursement by 77% approval (by shares).
- 8. Rules of Construction. Unless the context otherwise indicates:
 - (a) Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and neuter genders.
 - (b) All references to Articles and Paragraphs and Exhibits are references to the same.
 - (c) All references to "officers" are references to elected officials of the parties to this Agreement.
 - (d) The headings herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meanings, construction or effect.

ARTICLE II - CONTRIBUTIONS, REVENUES, AND DISTRIBUTIONS

1. Total Park development costs under a worst case scenario are estimated to be \$2,582,600. It is expected and desired that methods will be utilized to defer costs where possible by seeking external assistance, grants, utility extensions and other available programs. Such assistance will be used to minimize the overall costs of park development for every party, regardless of the applicant. 1% of the maximum park development cost estimate equals \$25,826, and this maximum commitment per share, multiplied by the number of shares each Governmental Partner is committing to, determines the total contribution for each Governmental Partner. Contributions by the Partners shall not exceed \$25,826 per share.

Participation under this Agreement:

Town of Catawba:	1 share at \$25,826 (1 share), or	\$ 25,826 total max. contribution
Town of Maiden:	5 shares at \$25,826 (5 shares), or	\$ 129,130 total max. contribution
City of Conover:	18 shares at \$25,826 (18 shares), or	\$ 464,868 total max. contribution
City of Hickory:	19 shares at \$25,826 (19 shares), or	\$ 490,694 total max. contribution
Catawba County:	<u>57 shares at \$25,826 (57 shares), or</u>	<u>\$1,472,082 total max. contribution</u>

TOTAL: 100 shares at \$25,826 (100 shares), or \$2,582,600 total max. contribution

- 2. Revenues.
 - A. Land sales, collected ad valorem taxes (not including motor vehicle taxes) attributable to the application of the County's and Host City's then current tax rate to any taxable value of real and personal property listed for taxes with respect to the Business Park.
 - B. Grants and other third party sources of revenue not excluded in Paragraph 2.D. of this Article.
 - C. Ad valorem taxes of Conover and Catawba County will be paid initially to Catawba County. Catawba County will retain 57%, and will distribute 43% to Conover. Conover will subsequently distribute this 43% to the City of Hickory, the Town of Maiden, and Town of Catawba according to the percentage shares as provided in paragraph 3 of this Article.
 - D. Revenue shall not include electrical gross receipts derived by an electric power company from sales within a municipality and remitted to municipalities under Article 3 of Chapter 105 of the North Carolina General Statutes; sales or use taxes; Host City zoning or building permit fees; other gross receipts or

franchise taxes; and receipts from sale of water and sewer to occupants of the Park.

3. Distributions. The Managing Entity, subject to requirements of law, will direct distributions to the Partners according to their agreed percentage, as outlined within Paragraph 1 of this Article, of all revenues. Distributions will be made after all ongoing obligations of the Partnership with respect to the Park have been provided for. Catawba County and Conover have the right to determine, in their respective sole discretion, matters such as tax rates, and each Governmental Partner understands that their payback will be affected by these decisions accordingly. The tax rate and amount of tax collection may vary, but the distribution percentages will remain as outlined in Paragraph 1 of this Article for the duration of this Agreement.

4. Park Budget. The Managing Entity shall prepare a proposed budget for each fiscal year not later than March 31.

ARTICLE III - IMPROVEMENTS

The development of the Business Park will take place over time with changing circumstances. It is the intent that the Partnership will proceed with Improvements as follows:

1. One hundred percent (100%) of the money to pay for utilities, roads, road grading, site preparation including grading, electrical improvements and other associated improvements necessary for the Park (herein referred to as "Improvements") shall be received by the Governmental Partners prior to commencement of work. Catawba County or a qualifying Sub-Recipient (as determined by the North Carolina Department of Commerce) will establish a separate Capital Budget account for revenues and expenditures related to this agreement.

2. Total of payments due by Governmental Partners are based on estimates for the costs of the Improvements received by the Managing Entity. The Improvements and their respective estimated costs including a 10% contingency for each are:

- A. \$532,053 contribution to construct a road from the terminus of the bridge spanning Lyle Creek to the cul-de-sac.
- B. \$170,000 to apply final asphalt topping on the road and the bridge from the current terminus of Northern Drive to the southern terminus of the bridge spanning Lyle Creek.
- C. \$253,490 for construction of a 12" inch water line from NC16 to the Park.
- D. \$306,370 for construction of a 12" inch secondary water line from Lee Cline Road to the Park.
- E. \$119,940 to extend sewer service into the Property.
- F. \$1,200,758 for grading of the Property to create three marketable parcels suitable for use by a client and the construction of electrical improvements for data center clients.
- G. The EDC to contribute \$2,364,730 to the County/Host City for the purposes of constructing a road and bridge from the current terminus of Northern Drive to the Park.

However, the Governmental Partners agree to pay their pro-rata share for any amounts in excess of the estimates, but no more than the maximum contribution under Article II. Payments by each of the Governmental Partners shall be made within net 30 days of billing. Where the securing of estimates are required, such estimates shall include a "not to exceed" number with respect to money and time.

3. Host City approves construction of individual Improvements. As a result of public improvements being located in and responsibility of the Host City, Host City will approve the construction and payment for Improvements. Catawba County or Host City shall report at least quarterly to the remaining Governmental Partners the progress of Improvements. Catawba County or Host City shall provide full and open access to all the Governmental Partners, upon any reasonable notice, of any documents pertaining to the Improvements. Catawba County or Host City shall promptly provide reports of any special issues that arise from time to time.

ARTICLE IV – TERM AND FINAL DISTRIBUTION

This agreement and the undertaking herein provided for shall continue for a period of twenty –five (25) years

from the effective date of this Agreement. Upon dissolution or termination of this Agreement any remaining assets shall be distributed on a pro-rata basis in accordance with Article II.

ARTICLE V – WATER AND SEWER

1. Water for the Business Park. Water will be provided through agreement with Conover and Hickory, with Hickory to supply the water as a pass-through in the same manner as is now provided in other agreements between Conover and Hickory for pass-through.
2. Sewer Service. (A) Sewer service will be allocated to the locating business and permitted as required by the N.C. Department of Environmental and Natural Resources. Conover will not permit more than 250,000 gallons of average daily flow in its Northeast Plant for the Business Park Property; (B) Excess sewer treatment requirements will be provided at a cost of \$18.00 per gallon plus or minus an adjustment for cost of living, up or down, going forward; and (C) Host City guarantees that there is now adequate and appropriate wastewater collection infrastructure off site of the park property for the anticipated development.

ARTICLE VI - INCENTIVES

1. Land Sale Price. The sale of any portion of the Property by the Governmental Partners shall be at a price of not less than the cost to the Parties of the same unless the Governmental Partners unanimously agree otherwise, but otherwise, the sales terms and any related matters may be decided by the Managing Entity with a 77% vote (by share).
2. Other Incentives. Some of the Governmental Partners, and more specifically Conover and Catawba County, may determine to provide business development incentives to a business locating or expanding operations in the Park. The Governmental Partners realize that the use of incentives may be determined to be of benefit to the purposes of the Park development and to the economic development and job creation in Catawba County. Catawba County and Conover have the right to determine, in their respective sole discretion, matters such as incentives and the terms thereof, and each Governmental Partner understands their payback will be affected by these decisions accordingly.

ARTICLE VII - HOST CITY DUTIES AND COMPENSATION THEREFORE

1. Following approval by at least 77% of Governmental Partners, Host City will oversee the construction of Improvements. Appropriate permits, rights of way and easements shall be in the name of the Host City. Where appropriate, utilities shall be in the name of the Host City.
2. County or Host City shall receive or have otherwise approved the process to secure adequate funds prior to letting of contracts, in order to comply with North Carolina General Statutes regarding the funding of contracts.
3. Host City shall be compensated further for the duties of acting as Host City by the collection and receipt of Revenues under Article II, Paragraph 2.D. as a result of development projects which may occur within the Park.

ARTICLE VIII - WITHDRAWAL

No Governmental Partner may withdraw from this Agreement. A Governmental Partner may sell some or all of their shares to another participating Governmental Partner or Partners with 90 days notice to all Governmental Partners.

1. Failure to make a called payment 40 days after the due date is a default.
2. Any party in default forfeits all previous payments to the Governmental Partners.
3. Any defaulting party remains liable and subject to all the Default Remedies of Article X and will still be liable for further payments to the Governmental Partners as contemplated by Article II and Article III.
4. All Governmental Partners remain liable under Article XI (Indemnification).

ARTICLE IX – MEDIATION

The dispute resolution process to be applied under this Agreement is as follows: The process will be available to all parties. The costs of mediation shall be equally divided by the parties (and not pro-rata on the same basis as their respective shares). A party's employees, consultants, and other similar related persons or entities, shall be made available to the mediation process by the respective mediating parties, but the expense of such persons attending the process shall be borne by the party requesting such presence.

1. The mediator shall be a retired Superior Court Judge that makes his or her residence from an adjoining county to Catawba County, if available, or if not available, as selected by the party or parties requesting mediation.
2. The mediator shall convene the first meeting of the parties within 10 days of appointment. A mediation process will begin by a party reducing the matter to be mediated to writing and delivering the same to all other parties. All parties acknowledge that legal arbitration, lawsuits and even mediation is an expensive process and can lead to further division between the parties. In keeping with this understanding, all parties pledge themselves to exert a bona fide good faith effort to resolve any dispute or needed change amicably through personal contact, either orally or in writing. Nevertheless, once a mediator is appointed communication with the mediator ex parte, other than in writing, is prohibited. All statements and all matters offered in connection with mediation, admissions or otherwise, shall not be subject to use in other proceedings and are privileged communications. After the mediator is appointed the process shall proceed as the mediator directs to the parties involved.
3. All proceedings shall be conducted in such manner and at such time and place as the mediator shall decide.
4. Notwithstanding the mediation process, any party may commence litigation in the General Courts of Justice of Catawba County, but nevertheless shall continue with the mediation process until its conclusion.

ARTICLE X- DEFAULT REMEDIES

Upon the occurrence of any event of default, and the continuation thereof for ten (10) days after notice from any Governmental Partner to the defaulting party, any one or more non-defaulting parties may (a) incur and pay such reasonable expenses for the defaulting party's account as may be necessary to cure the cause of any default and (b) proceed to protect and enforce its rights under this Agreement by a suit, action or special proceeding at law or in equity, either for the specific performance of any covenant or agreement or execution of any power or for the enforcement of any legal or equitable remedy as may be deemed most effectual to protect and enforce such rights.

All remedies under this Agreement are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. If any event of default shall occur and thereafter be waived, such waiver shall be limited to the particular breach so waived and shall not be deemed a waiver of any other breach under this Agreement.

If any party employs an attorney to assist in the enforcement of provisions of this Agreement, and such party prevails in its attempts at enforcement, then the defaulting party must pay the reasonable attorney's fees and all of the other costs that the non-defaulting party may reasonably have incurred (whether or not any suit or proceeding is commenced).

ARTICLE XI- INDEMNIFICATION

To the extent permitted by law, each Governmental Partner will indemnify, protect and save the other Governmental Partners and their respective officers, employees, and elected officials harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including

reasonable attorney's fees, arising out of, connected with, or resulting directly or indirectly from the actions of the indemnifying party (or its officers, employees or other agents) related to this Agreement or to the transactions contemplated by or relating to this Agreement.

The Governmental Partners acknowledge, however, that no Governmental Partner is a manufacturer, merchant or dealer in any property comprising any component of any of the planned Business Park. No Governmental Partner makes, or will be held to have made, to any other Governmental Partner, any express or implied warranty or representation of any kind whatsoever with respect to the Business Park, or any component part thereof, including but not limited to any warranty or representation with respect to the merchantability or the fitness or suitability thereof for any particular purpose, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; or any Governmental Partner's ability to perform any function.

The indemnification arising under this Article will survive the Agreement's termination.

ARTICLE XII- REPRESENTATIONS, COVENANTS AND WARRANTIES

Each of the Governmental Partners represents, covenants and warrants for the benefit of the others, as follows:

a) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which such party is now a party or by which it is bound, or constitutes a default under any of the foregoing.

b) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, to the best of such party's knowledge, constitutes a violation of any provision of law governing such party.

c) To the knowledge of each party, there is not litigation or other court or administrative proceeding pending or threatened against such party (or against any other person) affecting such party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

d) All parties' representations, covenants and warranties in this Agreement are true, correct and complete in all material respects, and not false or misleading in any material respect.

e) This Agreement has been validly authorized, executed and delivered by the party, and is a valid, legal and binding obligation of such party.

ARTICLE XIII- AUTHORITY FOR THIS AGREEMENT

The parties are entering into this Agreement pursuant to the general authority of Article 20, Chapter 160A of the North Carolina General Statutes (NCGS), which authorizes interlocal agreements, and the authority of NCGS 158-7.4, which expressly authorizes interlocal cooperation in the establishment and development of industrial parks. The obligations of the parties to one another, including the obligations to share in revenues and expenses under Article II, are intended as continuing contracts within the meaning of NCGS 160A-17.

ARTICLE XIV- LEGAL COUNSEL

Legal Counsel. All parties acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted by Counsel for each of the parties. As such, the doctrine of construction against the drafter shall have no application to this agreement.

ARTICLE XV- OTHER CONDITIONS

This Agreement and the performance hereunder by any of the Governmental Partners is contingent upon the following agreements or commitments:

1. Loan from the North Carolina Department of Commerce to Catawba County of at least \$2.6 million dollars. The loan proceeds shall be used for costs of the Improvements. The funds are provided in the form of a 2% simple interest loan with a seven-year term with interest only payments in years one and two, with a one-fifth (1/5) principal payment plus interest due each of years 3 through 7. The initial annual payment by the County to NCDOC is due July 1st after closing.
2. The municipal Governmental Partners agreement with the County to reimburse County on an annual basis their respective share of debt service with respect to the North Carolina Department of Commerce loan.
3. Agreement by and between the Host City and the EDC which shall provide in general terms: The EDC to contribute \$2,364,730 to the County/Host City for the purposes of constructing a road and a bridge from the terminus of Northern Drive to the Park.
4. Pass-through water agreement as contemplated by Article V.

ARTICLE XVI-PROPERTY CONVEYANCE

1. Corporation shall only convey any interest in the Property on such terms and conditions as the Managing Entity shall direct, subject to the terms of Article IV, Paragraph 1.
2. Corporation shall be required to direct all proceeds from the sale of any interest in the Property to the Governmental Partners according to the agreed percentages as provided by Paragraph 1 of Article II.

ARTICLE XVII- MISCELLANEOUS

1. Governing Law. This Agreement will be governed by North Carolina law, venue Catawba County.
2. Notices.
 - (a) Any communication required or permitted by this Agreement must be in writing except as expressly provided otherwise in this Agreement.
 - (b) Any communication shall be sufficiently given and deemed given when delivered by hand or on the date shown on a delivery receipt from either the United States Postal Service or a nationally recognized express delivery service, if addressed as follows:

Catawba County: County Manager
100-A Southwest Boulevard
Post Office Box 389
Newton, North Carolina 28658

City of Conover: City Manager
101 First Street East
Post Office Box 549
Conover, North Carolina 28613

City of Hickory: City Manager
76 North Center Street
Post Office Box 398
Hickory, North Carolina 28603-0398

Town of Maiden: Town Manager
113 West Main Street
Maiden, North Carolina 28650

Town of Catawba: Town Manager
102 First Street, NW
Post Office Box 70

Catawba, North Carolina 28609
Catawba County Property Development Corporation:
PO Box 3388
Hickory, North Carolina 28603

- (c) Any addressee may designate additional or different addresses for communications by notice given under this Section to the other person.
3. Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right is not a Business Day, such payment may be made or act performed or right exercised on or before the next succeeding Business Day.
 4. Severability. If any court of competent jurisdiction determines any provision of this Agreement to be unenforceable, that will not affect any other provision of this Agreement.
 5. No Assignments. No party may sell or assign any interest in or obligation under this Agreement without the prior express written consent of all the parties.
 6. Amendments. This Agreement may not be changed except in writing signed by all the parties.
 7. Binding Effect. Subject to the specific provisions of this Agreement, this Agreement is binding upon and inures to the benefit of, and is enforceable by, the parties and their respective successors and assigns.
 8. Liability of Elected Officials and Agents. No elected official, officer, agent or employee of any party shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such elected official, officer, agent, or employee shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such elected official, officer, agent or employee from the performance of any official duty provided by law.
 9. No Third-Party Beneficiaries. There are no entities which are, or which are intended as, third-party beneficiaries of this Agreement.
 10. Counterparts. This Agreement may be executed in several counterparts, including separate counterparts. Each will be an original, but all of them together constitute the same instrument.
 11. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the general subject matter covered hereby.

INTERLOCAL AGREEMENT FOR LOAN PAYBACK

THIS AGREEMENT, effective the 17th day of September, 2012 by and between **CATAWBA COUNTY**, a body politic, corporate in nature, or governmental agency existing by virtue of the laws of the State of North Carolina, party of the first part, hereinafter referred to as "County"; and **THE CITY OF CONOVER, THE CITY OF HICKORY, THE TOWN OF CATAWBA, and THE TOWN OF MAIDEN**, all such cities and towns being North Carolina municipal corporations located in Catawba County, North Carolina, hereinafter referred to as "Municipalities" or "Governmental Partner" or "Governmental Partners", and;

WITNESSETH:

WHEREAS, County and Municipalities have jointly entered into an Interlocal Agreement for a Business Park for Economic Development, dated September 17, 2012 [the "MJP Agreement"]; and a copy is attached hereto as Exhibit B and incorporated herein by reference.

WHEREAS, each of these Municipalities and County will jointly share, on a pro-rata basis in the costs and future benefits of any economic development projects to locate within the boundaries of the Business Park; and

WHEREAS, each of these parties have determined their percentage of participation by shares all as provided for in the MJP Agreement; and

WHEREAS, County has applied for and hopes to receive a low interest loan through the NC Department of Commerce specifically for park development at a maximum amount of \$2.6 million dollars [the "NCDOC Loan"]; and

WHEREAS, County has agreed to loan each of the participating Municipalities up to a maximum amount of \$2.6 Million Dollars multiplied by their percentage of participation by shares in the Business Park and each agrees to repay the County by that percentage of participation; and

WHEREAS, County and the participating Municipalities find it desirable to enter into an Agreement to provide for interlocal cooperation and repayment as authorized under Article 20 of Chapter 160A of the North Carolina General Statutes for the purpose of executing this undertaking.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, and as further contained in the above-referenced Agreements the parties wish to reduce their agreement in writing and agree to the following:

1. This purposes of this Agreement shall be to guarantee the timely repayment from each Municipality to County for their respective share of principal and interest of the NCDOC Loan.

2. Each Municipality's obligation for repayment will be limited to the maximum principal amount of the NCDOC Loan (not to exceed \$2.6 Million Dollars), plus interest, multiplied by the respective percentage of participation by shares for each Municipality as follows:

<u>Municipality</u>	<u>% Share</u>	<u>Principal</u>	<u>Accrued Interest (7 yrs.)</u>	<u>Total</u>
Conover	18	\$468,000	\$ 37,440	\$ 505,440
Hickory	19	\$494,000	\$ 39,520	\$ 533,520
Maiden	5	\$130,000	\$ 10,400	\$ 140,400
Catawba	1	\$ 26,000	\$ 2,080	\$ 28,080

3. The terms of the NCDOC loan are provided in the form of a 2% simple interest loan with a seven-year term with interest only payments in years one and two, with a one-fifth (1/5) principal payment plus interest due each of years 3 through 7. The initial annual payment by the County to NCDOC is due July 1st after closing.

4. Each Municipality agrees to make payment directly to County on an annual basis. County shall invoice Municipalities by May 1 of each year and payment shall be due within 30 days. Municipalities shall not make any payments in whole or in part as a credit to other obligations of Municipality to County.

5. This Agreement shall terminate when Municipality's obligations are satisfied.

6. The liability of each Municipality under this Agreement is separate and apart from the other and not joint and several.

7. It shall be an event of default under this Agreement if any Municipality shall not remit payment to County for any reason, whether voluntary or involuntary, within the time agreed to herein. Such default shall be considered a material breach if such breach shall continue for a period of sixty (60) or more days following the receipt of written notice from County.

8. If an event of default occurs, all funds due the County under this Agreement shall immediately become due and payable. Interest shall accrue at the rate of prime plus one (1) percent. The date the prime interest rate shall be determined shall be the date the County sends the defaulting Municipality notice of the event of default.

9. Notices under this agreement shall be sent to the following:

<p>a. Catawba County: 100-A Southwest Boulevard Post Office Box 389 Newton, North Carolina 28658</p>	<p>County Manager</p>
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b. City of Conover: City Manager
101 First Street East
Post Office Box 549
Conover, North Carolina 28613

c. City of Hickory: City Manager
76 North Center Street
Post Office Box 398
Hickory, North Carolina 28603-0398

d. Town of Maiden: Town Manager
113 West Main Street
Maiden, North Carolina 28650

e. Town of Catawba: Town Manager
102 First Street, NW
Post Office Box 70
Catawba, North Carolina 28609

10. If any section of this Agreement is deemed to be illegal or otherwise unenforceable, it is the intent of the parties hereto that all other provisions of this Agreement shall remain in full force and effect.

11. Time is of the essence to this Agreement.

12. This Agreement may be executed in multiple counterparts, each of which constitutes a completed document. [SEAL]

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk