

AGENDA

Catawba County Board of Commissioners Meeting
Monday, October 6, 2014, 9:15 a.m.
Robert E. Hibbitts Meeting Room, 1924 Courthouse
30 North College Avenue, Newton, NC

PLEASE NOTE THE CHANGE IN TIME OF THIS BOARD OF COMMISSIONERS MEETING. THIS MEETING HAS BEEN RESCHEDULED TO 9:15 A.M. SO THAT BOARD MEMBERS CAN ATTEND THE CATAWBA VALLEY FURNITURE ACADEMY OPEN HOUSE.

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Invocation.
4. [Approval of the minutes from the Board's Regular Meeting of September 8, 2014.](#)
5. Recognition of Special Guests.
6. Public Comment for Items Not on the Agenda.
7. Presentations:
[Resolution in Support of the County's Effort to Promote and Support the Hickory-Conover Tourism Development Authority. Presented by Bruce Eckard, Hickory Conover Tourism Development Authority Chairman and Bebe Leitch, CEO, Metro Convention & Visitor Bureau.](#)
8. Consent Agenda:
 - a. [State Criminal Alien Assistance Program \(SCAAP\) Grant.](#)
 - b. [Retirement of Drug Interdiction K-9 Dog "Jak".](#)
 - c. [Designation of Primary and Secondary Agents for FEMA Mitigation Grant.](#)
 - d. [Proposed Amendments to the Personnel Code – Conditional Offer of Employment and Reduction in Force.](#)
 - e. [Secondary Public Safety Answering Points \(PSAP\) funds.](#)
 - f. [Biodiesel Production Facility/Operations Privatization Lease Revisions.](#)
9. [Appointments.](#)
10. Public Hearing:
[Schedule of Values, Standards and Rules for Catawba County 2015 Revaluation. Presented by Tax Administrator Mark Logan.](#)
11. Other Items of Business.
[North Carolina Association of County Commissioners \(NCACC\) 2015-16 Long Session Legislative Goals Submission.](#)
12. Attorneys' Report.
13. Manager's Report.

14. Adjournment.

PERSONS WITH DISABILITIES: Individuals needing assistance should contact the County Clerk at 828-465-8990 within a reasonable time prior to the meeting. Access to the 1924 Courthouse for individuals with disabilities is at the south side ("A" Street). The elevator is located at the north end of the building. Participation in public meetings is without regard to race, creed, religion, national origin, sex, age, color, or disability.

INFOTALK/INTERNET: The Catawba County Telephone Information System will allow you to use your touch tone telephone to obtain current information on Catawba County 24 hours a day. Information is updated on a regular basis. Dial 465-8468 and INFOTALK will direct your questions with easy to understand instructions. Reach Catawba County on the Internet at <http://www.catawbacountync.gov>.

CALENDAR: The next Board of Commissioners Meeting will take place on Monday, October 20, 2014 at 7:00 p.m. in the Robert E. Hibbitts Meeting Room in the 1924 Courthouse in Newton.



**PREVIEW OF COUNTY COMMISSION AGENDA
MONDAY, OCTOBER 6, 2014, 9:15 A.M.
ROBERT E. HIBBITTS MEETING ROOM
1924 COURTHOUSE, NEWTON, N.C.**



The Catawba County Board of Commissioners will hold a public hearing on the proposed 2015 Schedule of Values, a set of standards and rules created following the study of the County's current real estate market which, after final approval by the Board, will be used as an appraisal manual to set property values effective on January 1, 2015, when the Board meets at 9:15 a.m. on Monday, October 6, 2014, at the 1924 Courthouse at 30 North College Avenue in Newton. The Board will also consider a set of legislative goals to be sent to the North Carolina Association of County Commissioners as part of the Association's statewide legislative goals creation process.

The Board will consider accepting a U.S. Department of Justice Grant to be used to meet medical costs at the County Jail. The Board will consider a request to retire drug interdiction K-9 dog, "Jak" and transfer ownership of Jak to his handler. The Board will consider designating Emergency Services Director Bryan Blanton and Emergency Management Coordinator Karyn Yaussy as primary and secondary agents on FEMA Mitigation Grants, which would be used to reduce or eliminate the long-term risk to life and property from a variety of hazards. The Board will consider a budget revision to account for pass-through 911 funds to be used by the cities of Hickory and Newton. The Board will consider amendments to the County's Personnel Code, which would remove from one section a statement regarding a pre-employment screening process that is inconsistent with the current practice and, in the section regarding Reduction in Force, address the inappropriate use of the term "part-time". And the Board will consider an amended lease regarding the privatization of the County's Biodiesel Production and operations.

The Board will also receive a resolution from the Hickory-Conover Tourism Development Authority commending the Board for its efforts to confirm the mission and goal of the Authority to promote travel and tourism in the area.

PLEASE NOTE THE CHANGE IN THE USUAL START TIME FOR THIS MEETING FROM 9:30 TO 9:15 A.M. SO BOARD MEMBERS MAY ATTEND THE CATAWBA VALLEY FURNITURE ACADEMY OPEN HOUSE.

PRESENTATION

The Board will receive a resolution from the Hickory-Conover Tourism Development Authority commending the Board for its continued efforts to confirm the mission and goal of the Authority to promote travel and tourism in the area.

CONSENT AGENDA

A. The Board will consider accepting grant funds in the amount of \$9,842 from the U.S. Department of Justice, State Criminal Alien Assistance Program (SCAAP). There are no matching funds required for this award that is 100% Federally funded. The SCAAP is a formula based grant program that provides agencies with reimbursement for some of the costs associated with incarcerating undocumented criminal aliens who have committed serious crimes in the U.S. The goal of this program is to enhance public safety in communities throughout the nation. Catawba County was one of only 857 (out of 3,140) eligible local entities across the U.S. that successfully applied for these dollars.

These grant funds are based on individuals held in the Newton Detention Center and those held for Catawba County at the Burke-Catawba District Confinement Facility during fiscal year 2012/2013. Funds under this program can be used for correctional purposes only. Staff has determined the best application would be for medical services in the jail. This expense is unpredictable during the year as it is dependant on the inmates' presented medical conditions. The need fluctuates as the population changes. The Board's Finance and Personnel Subcommittee recommends acceptance of these grant funds and supports their use for medical services in the jail.

B. The Board will consider adopting a resolution to retire drug interdiction K-9 dog "Jak" and transfer ownership of Jak to his handler, Dennis Smith, a Deputy Sheriff Investigator. Jak has performed his duties faithfully and diligently. He is 9 years old, has arthritis in his knees and spine and is no longer physically able to perform as a drug interdiction K-9 dog. Jak was specifically trained in certain law enforcement procedures and may behave unpredictably and possibly in an aggressive manner as a result of such training; therefore, he presents a risk to the health and safety of the general public if presented for sale to or adoption by citizens unfamiliar with the specialized training Jak received. Such risk to public health and safety is not present when a K-9 dog is transferred to the care and keeping of his or her

handler. This would allow Jak to retire to a familiar environment in the care of his handler who is very familiar with his training and would transfer Jak in a manner that does not endanger public health and safety. The resolution, pursuant to North Carolina General Statute 160A-266(d), would allow the Sheriff's Office to retire and transfer ownership of Jak to Deputy Smith, upon the deputy's accepting custody of the dog and assuming all liability and responsibility for the care of the animal for the remainder of his life. The Finance and Personnel Subcommittee recommends adoption of this resolution and the transfer of ownership of "Jak" to Deputy Sheriff Dennis Smith.

C. The Board will consider adopting a resolution designating Primary and Secondary Agents for a Mitigation Grant from the North Carolina Division of Emergency Management, Hazard Mitigation Section. Catawba County is eligible to obtain mitigation grant funding because of the July 27, 2013, flooding and resulting Presidential Major Disaster Declaration for Public Assistance known as DR-4153. The State of North Carolina has been awarded federal Department of Homeland Security Mitigation Grant monies to fund projects that reduce overall disaster risks for people and property and reliance on disaster recovery funds. Eligible activities include: acquiring property (i.e. structures and land) for open space conversion; relocating public or private structures; elevating existing public or private structures to avoid flooding; retrofitting structures (e.g., storm shutters, hurricane clips, bracing systems) to meet or exceed applicable building codes; and conducting hydrologic and hydraulic studies/analyses, engineering studies and drainage studies related to a mitigation project. Typically, these types of mitigation projects have a 25% non-Federal cost share. In this case the State of North Carolina will be paying the entire cost-share.

Hazard mitigation actions are taken to reduce or eliminate the long-term risk to life and property from a variety of hazards. Mitigation can occur before, during and after a disaster. It has been shown that mitigation is most effective when based on a comprehensive, long-term plan developed before a disaster occurs. Catawba County's mitigation planning efforts began as early as 2001 and the County has had an approved Multi-Jurisdictional Natural Hazard Mitigation Plan since 2004. This plan was updated in 2009 and a 2014 update is currently under review by the Federal Emergency Management Agency.

In order to be eligible to participate in the Department of Homeland Security Pre-Disaster Mitigation Grant program, Catawba County must maintain a current Multi-Jurisdictional Hazard Mitigation Plan. In addition, mitigation projects must be consistent with one or more specific mitigation goals in the current plan. For example, in the 2009 plan update, Catawba County identified the goal to "Pursue acquisition and elevation of flood prone structures and properties to eliminate or reduce the impact from flood hazards." The proposed mitigation project involves the voluntary acquisition or elevation of five residential properties in Catawba County.

Designation of County Primary and Secondary agents assures prompt and efficient filing of applications and documents for federal or state assistance related to hazard mitigation projects. This is the first of two requests Emergency Services will be making before the mitigation projects can begin. Once FEMA approves the mitigation grant application, the Board will receive a second report requesting a supplemental appropriation for hazard mitigation grant projects to be funded by a Department of Homeland Security Pre-Disaster Mitigation Grant. The Board's Finance and Personnel Subcommittee recommends the designation of Emergency Services Director Bryan Blanton and Emergency Management Coordinator Karyn Yaussy as Primary and Secondary Agent, respectively.

D. The Board will consider two proposed amendments to the Personnel Code. The first amendment, in Section 153, Conditional Offer of Employment, removes a statement regarding the pre-employment screening process that is inconsistent with the current practice. The second amendment, in Section 167, Reduction in Force, addresses the inappropriate use of the term "part-time."

Conditional Offer of Employment - This section of the Personnel Code outlines the procedures the Human Resources Department follows regarding background checks of applicants for County employment. The current wording in this section states that "additional tests" of applicants, beyond what is required for all positions in the County, must be completed before a final offer of employment is extended. In actual practice, once a conditional offer of employment is made to an applicant, staff conducts a variety of background checks, depending on the position being filled. All applicants must pass a criminal background check and pre-employment drug screening test; other applicants may be required to pass a credit check, driving record check or a pre-employment physical. Once these background checks are satisfactorily completed, a final offer of employment is extended to the applicant. For positions where verification of an educational degree or fingerprinting is required, an applicant is not required to provide these in advance of the final offer. These verifications generally take several weeks to process. Waiting on these verifications before the final

offer is extended would result in an unnecessary delay in filling job vacancies. Further, because the interview and qualification process is robust and includes structured team interviews and multiple reference checks, obtaining these verifications after the final offer has been made has not resulted in negative outcomes.

Reduction in Force – The County’s Reduction in Force procedure provides a greater level of protection for employees who have obtained property rights in their positions (by completing their probationary period of employment) than for those employees who do not have property rights in their positions. Employees who do not have property rights in their positions include hourly, temporary, or probationary employees; these employees may be terminated at any time with no due process requirements. When the Personnel Code was revised in 2012, the definition section was updated to clarify the difference between an hourly employee with no property rights and a part-time employee (with property rights). However, the Reduction in Force section addressing the various categories of employees was not updated. The use of the term “part-time” in this section should be “hourly,” indicating that, in the event a Reduction in Force was necessary, any hourly, temporary or probationary employee would be terminated before a permanent employee (with property rights).

The Finance and Personnel Subcommittee recommends approval of these amendments to the Personnel Code.

E. The Board will consider a budget revision to account for pass-through 911 funds for the cities of Hickory and Newton. The North Carolina 911 Board approved a funding method in December 2010 for distributing funds to primary Public Safety Answering Points, or PSAPs, which includes the County’s 911 Communication Center. The distribution amount is based on data collected for the most recent five years of approved eligible expenditures of each primary PSAP. Catawba County received \$513,604 in fiscal year 2013-14 to support its 911 center.

On January 21, 2014, the 911 Board adopted the Secondary PSAP Funding Committee’s recommendations to include an additional allocation from the NC 911 Board to secondary PSAPs, effective July 1, 2014. There are two eligible secondary PSAPs in Catawba County, in Hickory and Newton. Police chiefs from both cities approached County staff earlier this year asking for the County’s support in receiving this additional funding. At its September 2014 meeting, the NC 911 Board approved pass-through funding for Hickory and Newton to be used for authorized 911 expenditures in the amount of \$58,711 and \$11,809, respectively. These funds would be received by the County in addition to the funds for the primary PSAP, which will not be affected by the secondary PSAP funds. One of the requirements is that the new funds must flow through the County (primary PSAP) on a monthly basis and be followed with an annual report summarizing authorized expenditures. This report will be submitted in conjunction with the County’s annual 911 report. The 911 Board also requires the execution of an interlocal agreement between the primary and secondary PSAP detailing the terms and conditions associated with 911 funds used by the secondary PSAP. The Finance and Personnel Subcommittee recommends the requested budget revision and execution of the required interlocal agreements.

F. The Board will consider approval of a revised lease with Blue Ridge Biofuels of Asheville, North Carolina. In May, 2014 the Board approved a lease for the Biodiesel Production Facility with Blue Ridge Biofuels. In May, Blue Ridge Biofuels’ Director indicated the lease was fine, so it was submitted to the Board for approval. However, neither Blue Ridge’s board nor its attorney had approved the lease. The lease approved by Blue Ridge Biofuels’ board had a few minor changes from the earlier version, as follows: (1) Section 2.2 Termination, the earlier version provided a two year written notice, or if the County gave a one year notice it was required to pay the company’s relocation expenses. The current version requires Blue Ridge to provide twelve months notice and the County to provide sixty months notice. Given the investment the company is making in Catawba County, this is essential to Blue Ridge and staff believes it is appropriate; (2) Section 3.3 Service Charge, the earlier version was silent while the current version provides the County with the ability to add a service charge for any late rent payments; (3) Section 5.3 Hazardous Materials, provides much better detail and protection for County; and (4), the earlier version referred to “Lessor” and “Lessee” while the new version uses the terms “Landlord” and “Tenant”. The Finance and Personnel Subcommittee recommends approval of this revised lease.

PUBLIC HEARING

The Board will hold a public hearing to receive citizen comments on the proposed Schedule of Values, Standards, and Rules for Catawba County’s 2015 Revaluation as prescribed by North Carolina General Statute 105-317. Pursuant to a resolution adopted by the Board on October 3, 2011, Catawba County’s next countywide revaluation will become effective on January 1, 2015. Catawba County has approximately 87,000 separate parcels of land which are required

by State law to be appraised at 100% of market value as of the effective revaluation date. To that end, Catawba County staff has worked for many months analyzing data derived from real estate sales, building cost data, and income and expense statements from income producing properties in the County. This has culminated in the formulation of the proposed Schedule of Values, Standards, and Rules to be utilized to generate market value appraisals for all real property in Catawba County.

The Schedule of Values is a set of standards and rules that are used as an appraisal manual by the County appraisal staff to assure properties are valued in an accurate and consistent manner. The schedule contains information on methods used to determine land and building values based on criteria such as location, age, type of construction, zoning, income potential, cost, etc.

Also included in the proposed Schedule of Values is a special schedule for appraising eligible agricultural, horticultural, and forest land at its "present use" value. This schedule is a statewide schedule formulated by the North Carolina Department of Revenue. Properties whose owners qualify for "present use" assessment will receive two values: a market value mandated by law and a "present use" value.

Adoption of the proposed Schedule of Values is an important step in the revaluation process. Because of its importance, the Machinery Act of North Carolina requires the Board to only adopt it after holding a public hearing and then publicizing that it has done so. After the adoption, property owners will have 30 days to challenge the Schedule of Values by appeal to the North Carolina State Property Tax Commission.

In accordance with North Carolina General Statute 105-317(c), the proposed Schedule of Values was formally presented to the Board at its September 8, 2014, meeting. The Board notified the public on September 9, 2014, through newspapers of general circulation, that it had received the proposed Schedule of Values and that it is open for inspection at the Assessor's office. The notice also informed the public that a public hearing would be held on October 6, 2014, at 9:30 a.m., in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse.

Staff recommends a vote for formal adoption occur at the October 20, 2014, Board of Commissioners meeting at the 1924 Courthouse at 30 North College Avenue in Newton. Afterwards, a newspaper notice must be published stating that the Schedule of Values has been adopted and that property owners have 30 days from the date of the first publication to challenge the Schedule of Values by appeal to the North Carolina State Property Tax Commission on grounds that the Schedule of Values does not adhere to the appropriate statutory valuation standard (that it will produce values that are too high, too low, or inconsistent). The North Carolina State Property Tax Commission has the power to order the Board of Commissioners to revise the Schedule of Values if it does not adhere to the statutory valuation standard. The North Carolina State Property Tax Commission's decision may be appealed to the North Carolina Court of Appeals. Assuming an October 20, 2014, adoption by the Board of Commissioners, property owners will have until Wednesday, November 19, 2014, to challenge the Schedule of Values.

OTHER ITEMS OF BUSINESS

The Board will consider approval of the following proposed 2015-16 Long Session Legislative Goals for consideration by the North Carolina Association of County Commissioners (NCACC): 1) Support the expansion of sales tax options and flexibility for North Carolina counties; 2) Oppose the State shifting or cutting money from federal and state block grants (TANF, SSBG, & CCDBG) for mandated services; 3) Support State aid to public libraries by eliminating special provisions that distribute funding outside of the established equitable formula developed by the State Library Commission; 4) Support for broadband expansion; 5) Support the ban of Rhesus Macaque monkeys; 6) Support amending North Carolina General Statute 132-1(b) to address the public records law as it relates to non-North Carolina businesses/citizens; and 7) Support legislation to stimulate economic development activities including incentive programs, workforce development, and job creation programs.

In addition to these above goals, the following is proposed as a guiding principle for NCACC's intergovernmental relations committee, working with the Executive Branch regarding economic development: *Work with the Executive Branch to strengthen the partnership between the State and Counties to ensure there are the correct tools and internal processes in place to provide seamless delivery of economic development programs, including job recruitment and workforce development training opportunities.*

CONTACT: DAVE HARDIN, PUBLIC INFORMATION OFFICER 465-8464

**RESOLUTION IN SUPPORT OF THE COUNTY OF CATAWBA'S
EFFORTS TO PROMOTE AND SUPPORT THE
HICKORY-CONOVER TOURISM DEVELOPMENT AUTHORITY**

THAT, WHEREAS, Senate Bill 896 was enacted by the General Assembly of North Carolina during the 1985 Session (Short Session 1986) and ratified as the 1985 Session Laws Chapter 929;

WHEREAS, the provisions of the 1985 Session Law-Chapter 929 the City of Conover and the City of Hickory by joint resolutions levied a room occupancy tourism tax;

THAT, WHEREAS, the City of Hickory and the City of Conover authorized the acquisition and improvement of the Hickory Metro Convention Center in 1998 and the occupancy tax proceeds were used to make lease payments which in turn provided for the payment of the original construction and improvement of the Convention Center.

THAT, WHEREAS, in 2004 the Board of Commissioners of the County of Catawba, the City Council of the City of Hickory, North Carolina, and the City Council of the City of Conover adopted joint resolutions approving Hickory's expansion and improvement of the Hickory Metro Convention Center, and amending the Lease to Hickory-Conover Tourism Development Authority to provide for the expansion of the Convention Center, provide for the co-location of the Catawba County Economic Development Corporation with the Convention and Visitors Bureau to coordinate with nearby facilities including the higher Metro Education Centers, the Catawba County Chamber of Commerce, the Western Piedmont Council of Governments and various other client services such as hotels/ motels and dining; and

WHEREAS, the Hickory Metro Convention Center has served as a focal point for Western North Carolina business and industry as has been suggested by Foresight, Future Forward, Priority One and other regional studies and plans.

WHEREAS, the Hickory-Conover Tourism Development Authority and the operations of the Convention Center have been a key economic engine providing an economic benefit to the entire Catawba Valley region for more than sixteen (16) years since the facility first opened. Revenue generated from events held at the Convention Center in fiscal year 2013/14 amounted to \$6,900,000 with 86,233 tourist attending events at the facility.

WHEREAS, the Hickory-Conover Tourism Development Authority is greatly appreciative for the efforts of the County Commissioners for the County of Catawba in providing its support in many ways including but not limited to an annual contribution to the ongoing efforts of the Hickory-Conover Tourism Development Authority staff to promote tourism in the Catawba Valley region.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Hickory-Conover Tourism Development Authority does hereby recognize and commend the County of Catawba for its continued efforts to confirm the mission and goal of the Hickory-Conover Tourism Development Authority to promote travel and tourism in the area, and to recognize that the Convention Center is truly an economic engine and its effects are far reaching in both during a

sound and stable economy.

This the _____ day of _____, 2014.

HICKORY-CONOVER TOURISM
DEVELOPMENT AUTHORITY

BY: _____
Chairman

ATTEST:

Clerk

MEMORANDUM

TO: Catawba County Board of Commissioners
FROM: Finance and Personnel Subcommittee
DATE: October 6, 2014
IN RE: State Criminal Alien Assistance Program Grant

REQUEST

The Finance and Personnel Subcommittee recommends the Board of Commissioners accepts a grant from the US Department of Justice, State Criminal Alien Assistance Program (SCAPP), in the amount of \$9,842, along with its required certifications and assurances. There are no matching funds required for this award; it is 100% Federal funded.

BACKGROUND

The SCAAP is a formula based grant program that provides agencies with reimbursement for some of the costs associated with incarcerating undocumented criminal aliens who have committed serious crimes in the U.S. The goal of this program is to enhance public safety in communities throughout the nation. Catawba County was one of only 857 (out of 3,140) eligible local entities across the U.S. that successfully applied for these dollars.

These grant funds are based on individuals held in the Newton Detention Center and those held for Catawba County at Burke Catawba District Confinement Facility during fiscal year 2012/2013. Funds under this program can be used for correctional purposes only. Staff has determined the best application would be for medical services in the jail. This expense is unpredictable during the year as it is dependant on the inmates' presented medical conditions. The need fluctuates as the population changes.

RECOMMENDATION

The Finance and Personnel Subcommittee recommends the Board of Commissioners accepts these grant funds in the amount of \$9,842 and approve the use the 2014 SCAAP funds to supplement the medical services expense in the jail.

SUPPLEMENTAL APPROPRIATION

Revenue

110-220050-620385	\$9,842
State Criminal Alien Assistance Program (SCAAP)	

Appropriation:

110-220050-856300	\$9,842
Medical Services	

MEMORANDUM

To: Catawba County Board of Commissioners
From: Finance and Personnel Subcommittee
Date: October 6, 2014
Subject: Retirement of Drug Interdiction K-9 Dog “Jak”

Request

The Finance and Personnel Subcommittee recommends the Board of Commissioners approve a resolution to retire drug interdiction K-9 dog “Jak” and transfer ownership of Jak to his handler Dennis Smith, Deputy Sheriff Investigator.

Background

Jak is a drug interdiction K-9 dog and has performed his duties faithfully and diligently. Jak is 9 years old and has arthritis in his knees and spine, and he is no longer physically able to perform as a drug interdiction K-9 dog. Jak was specifically trained in certain law enforcement procedures and may behave unpredictably and perhaps in an aggressive manner as a result of such training; therefore, he presents a risk to the health and safety of the general public if presented for sale to or adoption by the general public, who are unfamiliar with the specialized training Jak received. Such risk to public health and safety is not present when the K-9 dog is transferred to the care and keeping of his handler Dennis Smith. This allows Jak to retire to a familiar environment in the care of his handler who is very familiar with his training and permits an ownership transfer of the K-9 dog that does not endanger public health and safety. The resolution, pursuant to NCGS 160A-266(d), would allow the Catawba County Sheriff’s Office to retire and transfer ownership of Jak to his handler Dennis Smith upon Deputy Smith accepting custody of the dog and assuming all liability and responsibility for the care of the animal for the remainder of its life.

Recommendation

The Finance and Personnel Subcommittee recommends the Board of Commissioners approve a resolution to retire drug interdiction K-9 dog “Jak” and transfer ownership of Jak to his handler Dennis Smith, Deputy Sheriff Investigator.

RESOLUTION 2014-

**AUTHORIZING THE RETIREMENT OF
K-9 DOG “JAK”**

WHEREAS, Jak, a drug interdiction K-9 dog and his handler, Dennis Smith, Deputy Sheriff Investigator, have been a great benefit to Catawba County for 9 years; and

WHEREAS, Jak has arthritis in his knees and spine and is no longer physically able to perform as a drug interdiction K-9 dog; and

WHEREAS, Jak was specifically trained in certain law enforcement procedures which may cause him to behave unpredictably and perhaps in an aggressive manner as a result of such training and presents a risk to the general public health and safety if presented for sale to or adoption by the general public; and

WHEREAS, such risk is not present when Jak is transferred to the care and keeping of his handler Dennis Smith; and

WHEREAS, the Board of Commissioners finds that Jak should be retired and ownership transferred to Dennis Smith due to the additional training and responsibility which is required; and

WHEREAS, NCGS 160A-266(d) permits the Board of Commissioners to authorize the transfer of ownership of Jak to Dennis Smith upon Dennis Smith accepting custody of the dog and assuming all liability and responsibility for the care of the animal for the remainder of its life.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners authorizes the transfer of ownership of K-9 dog Jak to Deputy Dennis Smith effective _____.

This the _____ day of October 2014.

MEMORANDUM

TO: Catawba County Board of Commissioners
FROM: Finance and Personnel Subcommittee
DATE: October 6, 2014
RE: Designation of Primary and Secondary Agents for FEMA Mitigation Grant

Request

The Finance and Personnel Subcommittee recommends to the Board of Commissioners the adoption of a resolution designating Primary and Secondary Agents for a Mitigation Grant from the State of North Carolina Division of Emergency Management Hazard Mitigation Section.

Background

Catawba County is eligible to obtain mitigation grant funding because of the July 27, 2013 flooding and the resulting Presidential Major Disaster Declaration for Public Assistance known as DR-4153. The State of North Carolina has been awarded federal Department of Homeland Security Mitigation Grant monies to fund projects that reduce overall disaster risks for people and property and reduce reliance on disaster recovery funds. Eligible activities include: acquiring property (i.e. structures and land) for open space conversion; relocating public or private structures; elevating existing public or private structures to avoid flooding; retrofitting structures (e.g., storm shutters, hurricane clips, bracing systems) to meet/exceed applicable building codes; and conducting hydrologic and hydraulic studies/analyses, engineering studies and drainage studies related to a mitigation project. Typically, these types of mitigation projects have a 25% non-federal cost share. In this case the State of North Carolina will be paying the entire cost-share.

Hazard mitigation actions are taken to reduce or eliminate the long-term risk to life and property from a variety of hazards. Mitigation can occur before, during and after a disaster. It has been shown that mitigation is most effective when based on a comprehensive, long-term plan that is developed before a disaster occurs. Catawba County's mitigation planning efforts began as early as 2001 and the county has had an approved Multi-Jurisdictional Natural Hazard Mitigation Plan since 2004. This plan was updated in 2009 and a 2014 update is currently under review by the Federal Emergency Management Agency.

In order to be eligible to participate in the Department of Homeland Security Pre-Disaster Mitigation Grant program, Catawba County must maintain a current Multi-Jurisdictional Hazard Mitigation Plan. In addition, mitigation projects must be consistent with one or more specific mitigation goals in the current plan. For example, in the 2009 plan update, Catawba County

identified the goal to “Pursue acquisition and elevation of flood prone structures and properties to eliminate or reduce the impact from flood hazards.” The proposed mitigation project involves the voluntary acquisition or elevation of five residential properties in Catawba County.

Designation of County Primary and Secondary agents assures prompt and efficient filing of applications and documents for federal or state assistance related to hazard mitigation projects under the Robert T. Stafford Disaster Relief & Emergency Assistance Act (Public Law 93-288 as amended).

This is the first of two requests Emergency Services will be making before the mitigation projects can begin. Once FEMA approves the mitigation grant application, you will receive a second report requesting a supplemental appropriation for hazard mitigation grant projects to be funded by a Department of Homeland Security Pre-Disaster Mitigation Grant funds.

Recommendations:

The Finance and Personnel Subcommittee recommends to the Board of Commissioners the adoption of a resolution designating Bryan Blanton, Director of Emergency Services as the Primary Agent and Karyn Yaussy, Emergency Management Coordinator as the Secondary Agent for the Mitigation Grant from the State of North Carolina Division of Emergency Management Hazard Mitigation Section.

**RESOLUTION
DESIGNATION OF APPLICANT'S AGENT
North Carolina Division of Emergency Management**

Organization Name (hereafter named Organization): Catawba County Emergency Services	Disaster Number: DR-4153
Applicant's State Cognizant Agency for Single Audit purposes (If Cognizant Agency is not assigned, please indicate): North Carolina Department of Crime Control and Public Safety	
Applicant's Fiscal Year (FY) Start	Month: July Day: First
Applicant's Federal Employer's Identification Number: 56-6001814	
Applicant's Federal Information Processing Standards (FIPS) Number: 37035	

PRIMARY AGENT	SECONDARY AGENT
Agent's Name Bryan D. Blanton	Agent's Name Karyn L. Yaussy
Organization Catawba County Emergency Services	Organization Catawba County Emergency Services
Official Position Emergency Services Director	Official Position Emergency Management Coordinator
Mailing Address 100-A Southwest Blvd. / PO Box 389	Mailing Address 100-A Southwest Blvd. / PO Box 389
City, State, Zip Newton, NC 28658	City, State, Zip Newton, NC 28658
Daytime Telephone (828)465-8233	Daytime Telephone (828)465-8989
Facsimile Number (828)464-4820	Facsimile Number (828)464-4820
Pager or Cellular Number (828) 302-5141	Pager or Cellular Number (828) 446-4108

BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the assurances printed on the reverse side hereof. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally.

PASSED AND APPROVED this _____ day of _____, 20__

GOVERNING BODY	CERTIFYING OFFICIAL
Name and Title Catawba County Board of Commissioners	Name
Name and Title	Official Position Chair, Board of Commissioers
Name and Title	Daytime Telephone (828) 465-8201

CERTIFICATION

I, _____ (Name) duly appointed and _____ (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of _____ (Organization) on the _____ day of _____, 20__.

Date: _____ Signature: _____

APPLICANT ASSURANCES

The applicant hereby assures and certifies that it will comply with the FEMA regulations, policies, guidelines and requirements including, but not limited to the following authorities: OMB Circulars Nos. A-87, A-95, A-102 and A-110, where applicable, and Part 13 of Title 44 of the Code of Federal Regulations (C.F.R.), as they relate to the application, acceptance and use of Federal funds for this Federally assisted project. Also, the Applicant gives assurance and certifies with respect to and as a condition for the grant that:

1. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurance contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with the provisions of: Executive Order 11988, relating to Floodplain Management and Executive Order 11990, relating to Protection of Wetlands.
3. It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purpose constructed.
4. It will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program(s) have been met.
5. It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grant or agency may need.
6. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.
7. It will give the grantor agency and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
8. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17-7031). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
9. It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and will see that work on the project will be prosecuted to completion with reasonable diligence.
10. It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.
11. It agrees to comply with Section 311, P.L. 93-288 and with Title VI of the Civil Rights Act of 1964 (P.L. 83-352) and in accordance with Title VI of the Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
12. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
13. It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and Federally-assisted programs.
14. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with OMB Circular A-102, P.L. 93-288 as amended, and applicable Federal Regulations.
15. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
16. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
17. (To the best of his knowledge and belief) the disaster relief work described on each Federal Emergency Management Agency (FEMA) Project Application for which Federal Financial assistance is requested is eligible in accordance with the criteria contained in 44 Code of Federal Regulations, Part 205, and applicable FEMA Handbooks.
18. The emergency or disaster relief work therein described for which Federal Assistance is requested hereunder does not or will not duplicate benefits received for the same loss from another source.
19. It will (1) provide without cost to the United States all lands, easements and rights-of-way necessary for accomplishment of the approved work; (2) hold and save the United States free from damages due to the approved work or Federal funding.
20. This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, reimbursements, advances, contracts, property, discounts of other Federal financial assistance extended after the date hereof to the Applicant by FEMA that such Federal Financial assistance will be extended in reliance on the representations and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear on the reverse as authorized to sign this assurance on behalf of the applicant.
21. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Director, Federal Emergency Management Agency as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
22. It will comply with the insurance requirements of Section 314, P.L. 93-288, to obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired, or constructed with this assurance.
23. It will defer funding of any projects involving flexible funding until FEMA makes a favorable environmental clearance, if this is required.
24. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
25. It will for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation and in conformity with applicable codes, specifications and standards; and, will evaluate the natural hazards in areas in which the proceeds of the grant or loan are to be used and take appropriate action to mitigate such hazards, including safe land use and construction practices.

STATE ASSURANCES

The State agrees to take any necessary action within State capabilities to require compliance with these assurances and agreements by the applicant or to assume responsibility to the Federal government for any deficiencies not resolved to the satisfaction of the Regional Director.

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Finance and Personnel Subcommittee

DATE: October 6, 2014

RE: Proposed amendments to the Personnel Code, Section 28-153 Conditional Offer of Employment and Section 28-167, Reduction in Force

REQUEST

The Finance and Personnel Subcommittee recommends to the Board of Commissioners the approval of two amendments to the Personnel Code. The first amendment, in Section 153 Conditional Offer of Employment, removes a statement regarding the pre-employment screening process that is inconsistent with the current practice. The second amendment, in Section 167 Reduction in Force, addresses the inappropriate use of the term "part-time."

BACKGROUND

Section 153 Conditional Offer of Employment

This section of the Personnel Code outlines the procedures the Human Resources Department follows regarding background checks of applicants for County employment. The current wording in this section states that "additional tests" of applicants, beyond what is required for all positions in the County, must be completed before a final offer of employment is extended. In actual practice, once a conditional offer of employment is made to an applicant, staff conducts a variety of background checks, depending on the position being filled. All applicants must pass a criminal background check and pre-employment drug screening test; other applicants may be required to pass a credit check, driving record check, or a pre-employment physical. Once these background checks are satisfactorily completed, a final offer of employment is extended to the applicant. For positions where verification of an educational degree or fingerprinting is required, an applicant is not required to provide these in advance of the final offer. These verifications generally take several weeks to process; waiting on these verifications before the final offer is extended would result in an unnecessary delay in filling job vacancies. Further, because the interview and qualification process is robust and includes structured team interviews and multiple reference checks, obtaining these verifications after the final offer has been made has not resulted in negative outcomes.

Section 167 Reduction in Force

Our Reduction in Force procedure provides a greater level of protection for employees who have obtained property rights in their positions (by completing their probationary period of employment) than for those employees who do not have property rights in their positions. Employees who do not

have property rights in their positions include hourly, temporary, or probationary employees; these employees may be terminated at any time with no due process requirements. When the Personnel Code was revised in 2012, the definition section was updated to clarify the difference between an hourly employee with no property rights and a part-time employee (with property rights). However, the Reduction in Force section addressing the various categories of employees was not updated. The use of the term “part-time” in this section should be “hourly,” indicating that in the event a Reduction in Force was necessary, any hourly, temporary or probationary employee would be terminated before a permanent employee (with property rights).

RECOMMENDATION

The Finance and Personnel Subcommittee recommends to the Board of Commissioners the approval of two amendments to the Personnel Code, effective October 7, 2014:

1. An amendment to Section 28-153 Conditional Offer of Employment, removing the statement that additional conditions of employment such as verification of educational degrees or finger printing must be completed before a final offer of employment is made.
2. An amendment to Section 28-167 Reduction in Force, replacing the term “part-time” with the term “hourly” to accurately reflect the change in definitions to employment categories that was made in 2012.

Attachment

Sec. 28-153. - Conditional offer of employment.

In order to protect citizens of the County and their properties, the procedures in this subsection are established on applicants for all positions in County government.

1) The Human Resources Director shall conduct a criminal background investigation of any final candidate for a County government position, and it shall be a precondition of employment that an applicant for a position shall provide all necessary personal identification, including Social Security number and driver's license, if available, so that a thorough search may be made of local, state and/or national criminal records to determine if the applicant has a history of criminal convictions.

2) An evaluation of any crime for purposes of employment shall take into account the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position.

3) Employment with the County may require that additional tests or investigations be conducted, after making a conditional offer of employment, ~~but before making a final offer of employment~~. Such additional tests or investigations are determined by the position being filled, and may include, but are not necessarily limited to the following: drivers' license record checks, credit checks, educational degree verification and finger printing.

4) All final candidates for County employment shall be required to undergo and pass a drug screening. All final candidates for Department Of Transportation positions shall undergo and pass a blood alcohol and drug screening.

5) Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination for fitness for duty. The appropriate test shall be based on bona fide occupational qualifications. Unsatisfactory results from such testing shall result in the conditional offer of employment being withdrawn.

6) The County reserves the right to consider all results and withdraw any offer of conditional employment based on the results obtained.

(Ord. No. 2003-19, 10-6-2003)

Sec. 28-167. - Reduction in force.

1) If a reduction in force becomes necessary for the County, either for lack of funds, revenues or lack of available work, the following procedures shall be followed:

a) Consideration of organizational needs of the County and the affected department.

b) A determination shall be made about which position the department can best do without.

c) If there is more than one position in a department that could be abolished, the value of an individual's performance to the department shall be considered.

d) All other considerations set forth herein being equal, length of service shall be considered, but shall not be the controlling consideration.

e) No permanent employee shall be separated while there are ~~hourly~~~~part-time~~, temporary or probationary employees serving in the same class within the same department, unless the permanent employee is not willing to transfer or accept reassignment, or unless the permanent employee does not have the knowledge or skills required to perform the work of the alternate position within the same class within a reasonable period of orientation or training such that would be given to a new employee.

f) Employees shall be given at least three weeks' written notice of a reduction in force.

g) A permanent employee who is separated due to a reduction in force shall have the right to appeal in accordance with the grievance procedure, to ensure that reduction-in-force procedures were followed. Permanent employees under the Department of Social Services and Public Health shall have a further right to appeal to the Office of Administrative Hearings.

2) Reduction in force criteria must be approved by the County Manager before implementing the reduction in force.

(Ord. No. 2003-19, 10-6-2003; Ord. No. 2009-04, 4-6-2009)

MEMORANDUM

To: Catawba County Board of Commissioners

From: Finance and Personnel Subcommittee

Date: October 6, 2014

Subject: Secondary PSAP Funds

Request

The Finance and Personnel Subcommittee recommends approval of a budget revision to account for pass-through 911 funds for the cities of Hickory and Newton.

Background

The North Carolina 911 Board approved a funding method in December 2010 for distributing funds to primary Public Safety Answering Points (PSAPs), which includes the County's 911 Communication Center. The distribution amount is based on data collected for the most recent five years of approved eligible expenditures of each primary PSAP. Catawba County received \$513,604 in fiscal year 2013-14 to support our 911 center.

On January 21, 2014, the 911 Board adopted the Secondary PSAP Funding Committee's recommendations to include an additional allocation from the NC 911 Board to secondary PSAPs effective July 1, 2014. In Catawba County, there are two eligible secondary PSAPs, Hickory and Newton. Police chiefs from both cities approached county staff earlier this year asking for the County's support in receiving this additional funding.

Review

The 911 Board at its September meeting approved pass-through funding for Hickory and Newton to be used for authorized 911 expenditures amounting to \$58,711 and \$11,809, respectively. These funds would be received by the County, in addition to the funds for our primary PSAP, which will not be affected by the secondary PSAP funds.

One of the requirements is that the new funds must flow through the County (Primary PSAP) on a monthly basis and be followed with an annual report summarizing the authorized expenditures. This report will be submitted in conjunction with the County's annual 911 report. Additionally, the 911 Board requires the execution of an interlocal agreement between the primary and secondary PSAP detailing the terms and conditions associated with 911 funds being used by the secondary PSAP. Copies of the executed interlocal agreements are attached.

Recommendation

The Finance and Personnel Subcommittee recommends approval a budget revision to account for additional 911 funds for the cities of Hickory and Newton.

Supplemental Appropriation:

202-280100-631628	Secondary PSAP – Hickory	\$58,711
202-280100-631629	Secondary PSAP – Newton	\$11,809
202-280100-861010	Secondary PSAP – Hickory	\$58,711
202-280100-861100	Secondary PSAP - Newton	\$11,809

PUBLIC SAFETY ANSWERING POINT (PSAP) INTERLOCAL AGREEMENT

This Public Safety Answering Point Interlocal Agreement (the "Interlocal Agreement") is made and entered into this the 28th day of August 2014 (the "Effective Date"), by and between Catawba County, a political subdivision of the State of North Carolina (the "County"), and the City of Newton, a body politic existing under the law of the State of North Carolina ("Newton").

WITNESSETH

WHEREAS, the County is the Primary PSAP for Catawba County, North Carolina and Newton is a Secondary PSAP; and

WHEREAS, the NC 911 Board, at its January 24, 2014 meeting, adopted the November 13, 2013 Secondary PSAP Funding Committee Recommendation, which is attached as Exhibit A and incorporated by reference, and allows the County and Newton to enter into this Interlocal Agreement for 911 Fund disbursements; and

WHEREAS, 911 Fund disbursements to the primary PSAPs will not be affected by disbursements for the secondary PSAPs made pursuant to this Interlocal Agreement and the November 13, 2013 Secondary PSAP Funding Recommendation; and

WHEREAS, 911 Fund disbursements for a secondary PSAP may be permitted through a primary PSAP when all of the conditions set forth in this Interlocal Agreement are met, and the funding allocations for the benefit of a secondary PSAP are approved by the NC 911 Board; and

WHEREAS, the November 13, 2013 Secondary PSAP Funding Recommendation further requires that the NC 911 Board and a primary PSAP enter into an agreement to disburse 911 funds to the primary PSAP for the benefit of, and further delivery to, a secondary PSAP. The agreement shall identify allocations for a secondary PSAP or the method of determining such allocations, conditions for suspension and termination of funding for secondary PSAPs, and such other terms or conditions as may be necessary or proper pursuant to NCGS 62A and the Board's policies, standards and rules; and

WHEREAS, the NC 911 Board establishes priorities for 911 Fund disbursements to ensure that adequate funds are available to meet the Board's statutory disbursement obligations. PSAP disbursement priorities in order of importance are 1) primary PSAPs, 2) secondary PSAPs and 3) PSAP grants; and

NOW, THEREFORE, the parties, in consideration of these mutual covenants and conditions, agree to meet the requirements for the 911 Fund disbursements as follows:

1. The County (primary PSAP) and Newton (secondary PSAP) are part of the same 911 system conforming to NCGS 62A-40 et seq.

2. This Interlocal Agreement between the governing bodies of the County (primary PSAP) and Newton (secondary PSAP) is consistent with the NC 911 policy attached defining and assigning responsibilities of answering and responding to 911 calls.
3. Any portion of 911 Fund disbursements allocated to Newton as a secondary PSAP will be provided by the County as a primary PSAP to the secondary PSAP when received by the county, and limited to eligible 911 expenses as shown in the NC 911 Board's eligible expenditures list.
4. The County as a primary PSAP disbursing 911 funds to Newton as a secondary PSAP shall report all 911 funds distributed to, and 911 expenditures incurred by, the secondary PSAP annually. This report shall not be combined with the County's report of expenditures to the NC 911 Board. Newton shall provide to the County all information needed to complete the aforementioned report in the format required by the NC 911 Board on or before August 15th. Newton will provide any additional information relating to Newton's 911 operations or expenses upon the NC 911 Board's request to the County.
5. Newton shall repay in full any and all requests or demands for repayment of secondary PSAP 911 Funds made by the NC 911 Board and disbursed by the County.
6. Any fee, fine, or penalty assessed to the County as a result of any action by the city with respect to the Interlocal Agreement will be paid in full by Newton.
7. Actual costs per call will be determined by the total annual approved costs of the primary PSAP for the most recent funding year divided by the total number of 911 calls received by the primary PSAP for the same year.
8. Funding for a secondary PSAP will be based on a per 911 call basis as measured by the Electronic Call Analysis Tracking System (ECaTS) as provided by the NC 911 Board.
9. Any additional funding requested by Newton shall follow the procedure established by the NC 911 Board as the "Annual Funding Reconsideration Request" and must be processed by the County as the primary PSAP.
10. All notices and communications required or permitted to be given hereunder shall be in writing and hand delivered, telefaxed, or mailed addressed as follows:

If to Newton:
City Manager
P.O. Box 550
Newton, NC 28658

Telephone: 828-695-4259
Telecopier: 828-465-7405

If to County:
County Manager
PO Box 389
Newton, NC 28658

Telephone: 828-465-8201
Telecopier: 828-465-8392

11. The term of this Interlocal Agreement will be from the Effective Date until June 30, 2015, and will automatically renew for successive one year periods unless a party gives written notice to the other party of its intent not to renew this Interlocal Agreement at least 180 days prior to the expiration of the current term. This Interlocal Agreement may be terminated for any of the following reasons:
 - a. Termination of the disbursement agreement made by the NC 911 Board and the primary PSAP;
 - b. Failure to meet the NC 911 Board policy for disbursements to secondary PSAPs;
 - c. Changes in statutory authority disallowing such disbursements of the NC 911 Fund;
 - d. Cessation of the primary or secondary PSAP's operations; or
 - e. Mutual agreement of the parties, or by either party upon giving at least 180 days written notice to the other party.
12. In any action or proceeding arising out of this Agreement, each party shall bear its own attorney's fees, and the prevailing party shall be entitled to recover court costs and attorney's fees from the non-prevailing party incurred by such party in enforcing its rights hereunder.
13. This Interlocal Agreement shall be governed and construed by the Laws of the State of North Carolina. Venue shall be proper and shall lie exclusively in the Superior Court of Catawba County, North Carolina.
14. This Interlocal Agreement contains the entire agreement between the County and the City of Newton and there are no other terms, conditions, promises, undertakings, statements or representations, either written or oral or express or implied, concerning the matters contemplated by this Interlocal Agreement.

Accepted and Agreed to this 20th day of August, 2014.

CATAWBA COUNTY

By: J. Thomas Lundy
Manager

The City of NEWTON

By: Paul Clark
Manager

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

Date: 8-13-14

Rodney N. Miller
Rodney N. Miller, Finance Director

APPROVED AS TO FORM

Date: 8-12-14

Jodi Stewart
Jodi Stewart, Assistant County Attorney

EXHIBIT A



November 13, 2013 Secondary PSAP Funding Recommendation

- I. Recommendation: The Secondary PSAP Funding Committee recommends adoption of the following individual recommendations as a formal policy of the 911 Board.
 - A. 911 Fund disbursements to the primary PSAPs shall not be affected by disbursements for the secondary PSAPs made pursuant to agreements made pursuant to this policy.
 - B. 911 Fund disbursements for a secondary PSAP may be permitted through a primary PSAP when all of the conditions set forth below are met, and the funding allocations for the benefit of a secondary PSAP are approved by the 911 Board.
 - 1) The primary and secondary PSAPs are part of the same 911 System conforming to G.S. 62A-40 et seq.
 - 2) An interlocal agreement consistent with this policy exists between the governing bodies of the primary PSAP and the secondary PSAP defining and assigning responsibilities of answering and responding to 911 calls.
 - 3) Any portion of 911 Fund disbursements allocated to a secondary PSAP will be provided by the primary PSAP to the secondary PSAP, and limited to eligible 911 expenses as shown in the Board's eligible expenditures list.
 - 4) A primary PSAP disbursing 911 Funds to a secondary PSAP shall report all 911 funds distributed to, and 911 expenditures incurred by, a secondary PSAP annually. This report shall not be combined with the primary PSAP's report of expenditures to the North Carolina 911 Board. The primary PSAP shall obtain and provide additional information relating to a secondary PSAP's 911 operations or expenses upon the Board's request.
 - 5) Actual costs per call will be determined by the total annual approved costs of the primary PSAP for the most recent funding year divided by the total number of 911 calls received by the primary PSAP for the same year.
 - 6) Funding for a secondary PSAP will be based on a per 911 call basis as measured by the Electronic Call Analysis Tracking System (ECaTS) as provided by the North Carolina 911 Board.
 - 7) That any additional funding requested by a secondary PSAP shall follow the procedure established by the Board as the "Annual Funding Reconsideration Request" and must be processed by the primary PSAP associated with secondary PSAP.

- 8) The interlocal agreement shall include provisions terminating or suspending disbursements of 911 Funds; such provisions may include:
 - a. Termination of the disbursement agreement made by the Board and the primary PSAP,
 - b. Failure to meet the Board policy for disbursements to secondary PSAPs,
 - c. Changes in statutory authority disallowing such disbursements of the 911 Fund,
 - d. Cessation of the primary or secondary PSAP's operations, and
 - e. Mutual agreement of the parties, or by other action of a governing body which prevents further participation.
- C. The 911 Board establishes priorities for 911 Fund disbursements to ensure that adequate funds are available to meet the Board's statutory disbursement obligations. PSAP disbursement priorities in order of importance are 1) primary PSAPs, 2) secondary PSAPs and 3) PSAP grants.
- D. The Board and a primary PSAP enter into an agreement to disburse 911 Funds to the primary for the benefit of, and further delivery to, a secondary PSAP. The agreement shall identify allocations for a secondary PSAP or the method of determining such allocations, conditions for suspension and termination of funding for secondary PSAPs, and such other terms or conditions as may be necessary or proper pursuant to N.C.G.S. 62A and the Board's policies, standards and rules.
- E. This policy will be effective July 1, 2014.

CONTRACT INFORMATION SHEET
CATAWBA COUNTY GOVERNMENT, NC

CONTRACT NUMBER:	<i>Assigned by Finance</i> <i>26-15-0164</i>
PARTIES TO CONTRACT:	Catawba County and the City of Hickory
BEGINNING AND ENDING DATES:	Date signed – 7/30/2015
USER DEPARTMENT:	Emergency Services
DEPARTMENT RETAINING SIGNED ORIGINAL:	Emergency Services
BRIEF DESCRIPTION OR PURPOSE:	911 Funds for Secondary PSAPs (pass through funding)
DOLLAR AMOUNT OF CONTRACT:	\$71,564 (prorated based on date of 911 Boards approval)
ACCOUNT NUMBER – EXPENSE/REVENUE	202-280100-631627 NC 911 Secondary PSAP Funds
RETURN WHEN COMPLETED TO:	<i>Bryan Blanton</i>

 N/A Technology (if applicable)

 ✓ Attorney

 RM Finance

 BB Department Head

 N/A E-Verify Affidavit

PUBLIC SAFETY ANSWERING POINT (PSAP) INTERLOCAL AGREEMENT

This Public Safety Answering Point Interlocal Agreement (the "Interlocal Agreement") is made and entered into this the 26th day of August 2014 (the "Effective Date"), by and between Catawba County, a political subdivision of the State of North Carolina (the "County"), and the City of Hickory, a body politic existing under the law of the State of North Carolina ("Hickory").

WITNESSETH

WHEREAS, the County is the Primary PSAP for Catawba County, North Carolina and Hickory is a Secondary PSAP; and

WHEREAS, the NC 911 Board, at its January 24, 2014 meeting, adopted the November 13, 2013 Secondary PSAP Funding Committee Recommendation, which is attached as Exhibit A and incorporated by reference, and allows the County and Hickory to enter into this Interlocal Agreement for 911 Fund disbursements; and

WHEREAS, 911 Fund disbursements to the primary PSAPs will not be affected by disbursements for the secondary PSAPs made pursuant to this Interlocal Agreement and the November 13, 2013 Secondary PSAP Funding Recommendation; and

WHEREAS, 911 Fund disbursements for a secondary PSAP may be permitted through a primary PSAP when all of the conditions set forth in this Interlocal Agreement are met, and the funding allocations for the benefit of a secondary PSAP are approved by the NC 911 Board; and

WHEREAS, the November 13, 2013 Secondary PSAP Funding Recommendation further requires that the NC 911 Board and a primary PSAP enter into an agreement to disburse 911 funds to the primary PSAP for the benefit of, and further delivery to, a secondary PSAP. The agreement shall identify allocations for a secondary PSAP or the method of determining such allocations, conditions for suspension and termination of funding for secondary PSAPs, and such other terms or conditions as may be necessary or proper pursuant to NCGS 62A and the Board's policies, standards and rules; and

WHEREAS, the NC 911 Board establishes priorities for 911 Fund disbursements to ensure that adequate funds are available to meet the Board's statutory disbursement obligations. PSAP disbursement priorities in order of importance are 1) primary PSAPs, 2) secondary PSAPs and 3) PSAP grants; and

NOW, THEREFORE, the parties, in consideration of these mutual covenants and conditions, agree to meet the requirements for the 911 Fund disbursements as follows:

1. The County (primary PSAP) and Hickory (secondary PSAP) are part of the same 911 system conforming to NCGS 62A-40 et seq.

2. This Interlocal Agreement between the governing bodies of the County (primary PSAP) and Hickory (secondary PSAP) is consistent with the NC 911 policy attached defining and assigning responsibilities of answering and responding to 911 calls.
3. Any portion of 911 Fund disbursements allocated to Hickory as a secondary PSAP will be provided by the County as a primary PSAP to the secondary PSAP when received by the county, and limited to eligible 911 expenses as shown in the NC 911 Board's eligible expenditures list.
4. The County as a primary PSAP disbursing 911 funds to Hickory as a secondary PSAP shall report all 911 funds distributed to, and 911 expenditures incurred by, the secondary PSAP annually. This report shall not be combined with the County's report of expenditures to the NC 911 Board. Hickory shall provide to the County all information needed to complete the aforementioned report in the format required by the NC 911 Board on or before August 15th. Hickory will provide any additional information relating to Hickory's 911 operations or expenses upon the NC 911 Board's request to the County.
5. Hickory shall repay in full any and all requests or demands for repayment of secondary PSAP 911 Funds made by the NC 911 Board and disbursed by the County.
6. Any fee, fine, or penalty assessed to the County as a result of any action by the city with respect to the Interlocal Agreement will be paid in full by Hickory.
7. Actual costs per call will be determined by the total annual approved costs of the primary PSAP for the most recent funding year divided by the total number of 911 calls received by the primary PSAP for the same year.
8. Funding for a secondary PSAP will be based on a per 911 call basis as measured by the Electronic Call Analysis Tracking System (ECaTS) as provided by the NC 911 Board.
9. Any additional funding requested by Hickory shall follow the procedure established by the NC 911 Board as the "Annual Funding Reconsideration Request" and must be processed by the County as the primary PSAP.
10. All notices and communications required or permitted to be given hereunder shall be in writing and hand delivered, telefaxed, or mailed addressed as follows:

If to Hickory:
City Manager
76 N Center St
Hickory, NC 28601

Telephone: 828-323-7412
Telecopier: 828-323-7550

If to County:
County Manager
PO Box 389
Newton, NC 28658

Telephone: 828-465-8201
Telecopier: 828-465-8392

11. The term of this Interlocal Agreement will be from the Effective Date until June 30, 2015, and will automatically renew for successive one year periods unless a party gives written notice to the other party of its intent not to renew this Interlocal Agreement at least 180 days prior to the expiration of the current term. This Interlocal Agreement may be terminated for any of the following reasons:
 - a. Termination of the disbursement agreement made by the NC 911 Board and the primary PSAP;
 - b. Failure to meet the NC 911 Board policy for disbursements to secondary PSAPs;
 - c. Changes in statutory authority disallowing such disbursements of the NC 911 Fund;
 - d. Cessation of the primary or secondary PSAP's operations; or
 - e. Mutual agreement of the parties, or by either party upon giving at least 180 days written notice to the other party.
12. In any action or proceeding arising out of this Agreement, each party shall bear its own attorney's fees, and the prevailing party shall be entitled to recover court costs and attorney's fees from the non-prevailing party incurred by such party in enforcing its rights hereunder.
13. This Interlocal Agreement shall be governed and construed by the Laws of the State of North Carolina. Venue shall be proper and shall lie exclusively in the Superior Court of Catawba County, North Carolina.
14. This Interlocal Agreement contains the entire agreement between the County and the City of Hickory and there are no other terms, conditions, promises, undertakings, statements or representations, either written or oral or express or implied, concerning the matters contemplated by this Interlocal Agreement.

Accepted and Agreed to this 20th day of August, 2014.

CATAWBA COUNTY

By: _____

Handwritten signature of J. Thomas Hardy in black ink, written over a horizontal line.

Manager

The City of HICKORY

By: _____

Handwritten signature in black ink, written over a horizontal line.

Manager

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

Date: 8-13-14

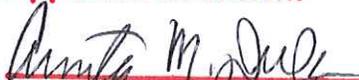

Rodney N. Miller, Finance Director

APPROVED AS TO FORM

Date: 8-12-14


Jodi Stewart, Assistant County Attorney

Approved as to form


City of Hickory -- Legal Dept.

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.


City of Hickory
Finance Officer

EXHIBIT A



November 13, 2013 Secondary PSAP Funding Recommendation

- I. Recommendation: The Secondary PSAP Funding Committee recommends adoption of the following individual recommendations as a formal policy of the 911 Board.
 - A. 911 Fund disbursements to the primary PSAPs shall not be affected by disbursements for the secondary PSAPs made pursuant to agreements made pursuant to this policy.
 - B. 911 Fund disbursements for a secondary PSAP may be permitted through a primary PSAP when all of the conditions set forth below are met, and the funding allocations for the benefit of a secondary PSAP are approved by the 911 Board.
 - 1) The primary and secondary PSAPs are part of the same 911 System conforming to G.S. 62A-40 et seq.
 - 2) An interlocal agreement consistent with this policy exists between the governing bodies of the primary PSAP and the secondary PSAP defining and assigning responsibilities of answering and responding to 911 calls.
 - 3) Any portion of 911 Fund disbursements allocated to a secondary PSAP will be provided by the primary PSAP to the secondary PSAP, and limited to eligible 911 expenses as shown in the Board's eligible expenditures list.
 - 4) A primary PSAP disbursing 911 Funds to a secondary PSAP shall report all 911 funds distributed to, and 911 expenditures incurred by, a secondary PSAP annually. This report shall not be combined with the primary PSAP's report of expenditures to the North Carolina 911 Board. The primary PSAP shall obtain and provide additional information relating to a secondary PSAP's 911 operations or expenses upon the Board's request.
 - 5) Actual costs per call will be determined by the total annual approved costs of the primary PSAP for the most recent funding year divided by the total number of 911 calls received by the primary PSAP for the same year.
 - 6) Funding for a secondary PSAP will be based on a per 911 call basis as measured by the Electronic Call Analysis Tracking System (ECaTS) as provided by the North Carolina 911 Board.
 - 7) That any additional funding requested by a secondary PSAP shall follow the procedure established by the Board as the "Annual Funding Reconsideration Request" and must be processed by the primary PSAP associated with secondary PSAP.

- 8) The interlocal agreement shall include provisions terminating or suspending disbursements of 911 Funds; such provisions may include:
 - a. Termination of the disbursement agreement made by the Board and the primary PSAP,
 - b. Failure to meet the Board policy for disbursements to secondary PSAPs,
 - c. Changes in statutory authority disallowing such disbursements of the 911 Fund,
 - d. Cessation of the primary or secondary PSAP's operations, and
 - e. Mutual agreement of the parties, or by other action of a governing body which prevents further participation.
- C. The 911 Board establishes priorities for 911 Fund disbursements to ensure that adequate funds are available to meet the Board's statutory disbursement obligations. PSAP disbursement priorities in order of importance are 1) primary PSAPs, 2) secondary PSAPs and 3) PSAP grants.
- D. The Board and a primary PSAP enter into an agreement to disburse 911 Funds to the primary for the benefit of, and further delivery to, a secondary PSAP. The agreement shall identify allocations for a secondary PSAP or the method of determining such allocations, conditions for suspension and termination of funding for secondary PSAPs, and such other terms or conditions as may be necessary or proper pursuant to N.C.G.S. 62A and the Board's policies, standards and rules.
- E. This policy will be effective July 1, 2014.

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Policy and Public Works Subcommittee

DATE: October 6, 2014

IN RE: Biodiesel Production Facility/Operations Privatization Lease Revisions

REQUEST

The Policy and Public Works Subcommittee recommends the Board of Commissioners approve a revised lease with Blue Ridge Biofuels of Asheville, North Carolina.

BACKGROUND

In May, 2014 the Board of Commissioners approved a lease for the Biodiesel Production Facility with Blue Ridge Biofuels. In May, Blue Ridge Biofuels' Director indicated the lease was fine so the lease was submitted to the board for approval. However, neither Blue Ridge's board nor their attorney had approved the lease. The attached lease has been approved by their board. While the format looks different the content is substantially similar to the earlier version. A few changes to note are as follows:

- Section 2.2 Termination. The earlier version provided a two year written notice, or if the County gave a one year notice it was required to pay the company's relocation expenses. The current version requires Blue Ridge to provide twelve months notice and the County to provide sixty months notice. Given the investment the company is making in Catawba County this is essential to Blue Ridge and staff believes it is appropriate.
- Section 3.3 Service Charge. Earlier version was silent while the current version provides County with the ability to add a service charge for any late rent payments.
- Section 5.3 Hazardous Materials. Provides much better detail and protection for County.
- The earlier version referred to "Lessor" and "Lessee" and now uses the terms "Landlord" and "Tenant".

RECOMMENDATION

The Policy and Public Works Subcommittee recommends the Board of Commissioners approve a revised lease with Blue Ridge Biofuels of Asheville, North Carolina.

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF CATAWBA

THIS LEASE AGREEMENT, (the "Lease" or "Lease Agreement") is made and entered into to be effective the ___ day of _____, 2014 by and between Catawba County, a political subdivision of the State of North Carolina ("Landlord"), and Blue Ridge Biofuels, LLC, a North Carolina limited liability company, ("Tenant"); Landlord and Tenant being sometimes hereinafter collectively referred to as the "Parties", and singularly as a "Party".

WITNESSETH:

WHEREAS, Landlord is the owner of that certain parcel of real property and improvements located thereon located at 3961 Rocky Ford Road, Newton, North Carolina (the "Property" or "EcoComplex"); and,

WHEREAS, Tenant desires to lease that portion of the Property identified as the Premises on Exhibit A attached hereto and incorporated herein by reference from the Landlord, and the Landlord desires to lease the Premises to the Tenant, upon the terms and conditions contained herein;

NOW, THEREFORE, for and in consideration of the premises, the payment of Rent (as such term is defined herein), the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Demise of Premises:**

1.1 **Premises, Possession:** Landlord does hereby demise and lease unto Tenant and Tenant does hereby lease from Landlord the Premises, subject to the terms and conditions contained herein. Landlord further grants to Tenant the non-exclusive right to use the easements, licenses, and other rights regarding access to the Premises which are lawfully owned by the Landlord for the purposes of ingress, egress, and regress by the Tenant, which rights of access and use shall be appurtenant to this Lease for so long as this Lease shall remain in effect. The Tenant shall have possession of the Premises on the 2nd day of November 2014 for purposes of commencing Tenant Improvements as contemplated herein. The Parties acknowledge and agree that with the exception of payment of Rent, all terms and conditions set forth herein shall apply upon Landlord's delivery of possession of the Premises to Tenant.

2. **Term, Termination:**

2.1 **Term.** The Term of this Lease shall be for a period of twenty (20) years, commencing on the 1st day of January, 2015 (the "Commencement Date"), and terminating on the 31st day of December, 2034, unless earlier terminated as provided herein. A "Lease Year" shall be defined as the twelve month period commencing on the Commencement Date and ending on the last day of the calendar month immediately preceding each anniversary of the Commencement Date.

2.2 Termination. Notwithstanding anything contained herein to the contrary, Tenant shall have the right, but not the obligation, to terminate this Lease at any time during the Term by providing the Landlord twelve (12) months advance written Notice of such termination. Landlord shall have the right, but not the obligation, to terminate this Lease at any time during the Term by providing the Tenant sixty (60) months advance written Notice of such termination. Notwithstanding the foregoing, in the event of a change in any applicable State or Federal law or regulation which necessitates the termination of this Lease, either Landlord or Tenant may terminate this Lease upon written Notice to the other.

3. **Rents:**

3.1 Rent: Rent during the first two (2) Lease Years of the Term shall be an annual rent of Six Thousand and no/100s Dollars (\$6,000.00) ("Base Rent"), which Base Rent shall be payable in equal monthly installments of Five Hundred and no/100s Dollars (\$500.00) each. The first Base Rent installment shall be due and payable on the Commencement Date. Following the second anniversary of the Commencement Date, Base Rent shall be adjusted annually on each successive anniversary of the Commencement Date based upon the aggregate increase, in the Consumer Price Index for the preceding Lease Year. For purposes of this Paragraph, the Consumer Price Index shall be "All Urban Consumers, South Region, All Items" annual average, or if CPI is no longer published or reasonably available, an equivalent successor index measuring the cost of living in the Southeast region of the United States.

3.2 Rent Payments: All Rent payments, unless otherwise designated in writing, are to be made to Landlord, C/o Director of Utilities and Engineering, P.O. Box 389, Newton, North Carolina. Tenant agrees to mail all Rent payments in advance allowing ample time for delivery of each Rent payment to Landlord, so it will receive the Rent payment in hand on or before the first day of each calendar month during the Term.

3.3 Service Charge: Rent payments are due and payable on or before the 1st day of each month. In the event Rent is not received by Tenant within the time provided, a service charge of five percent (5%) shall be added to all past due amounts.

3.4 Biodiesel Supply as Additional Consideration. In addition to Rent payable hereunder, Tenant agrees that during the Term, it shall supply the Landlord with blended biodiesel in the amounts and otherwise in accordance with Exhibit B attached hereto and incorporated herein by reference.

4. **Utilities:**

Tenant shall pay for all telephone, electricity, gas, water/sewer, storm-water fees, garbage service and all other utilities in connection with the Premises, if any. Landlord shall permit Tenant to use existing Internet service within the Leased Premises without charge to Tenant.

5. **Use:**

5.1 General Use: The Premises shall be used by Tenant for the manufacture and sale of biodiesel, blended fuel products, and ancillary byproducts, and shall not be used for any other purpose without the prior written consent of the Landlord, which consent shall not be unreasonably withheld or delayed.

5.2 Signage: Tenant may erect or permit the erection of any outside or protruding signs or media only with the prior approval of Landlord, which shall not be unreasonably withheld. Provided, however, that said signage shall comply with all applicable rules and regulations of the State of North Carolina and County of Catawba. This provision includes, but is not limited to, all signs (advertising, general or other), fixtures, draperies, and other ornamental and functional pieces which may be observed from the outside of the Premises.

5.3 Hazardous Materials: Tenant covenants and agrees that it shall not dispose of, discharge or release on or about the Premises any hazardous waste, hazardous substances, hazardous materials, toxic substances, hazardous air pollutants or toxic pollutants, hereinafter referred to as "Hazardous Materials", as those terms are used in the Resource Conservation and Recovery Act, The Comprehensive Environmental Response, Compensation and Liability Act, The Hazardous Materials Transportation Act, The Toxic Substance Control Act, The Clean Air Act and The Clean Water Act, and any and all amendments thereto, or any regulation promulgated pursuant thereto, or in any applicable federal, state or local law, regulation, or ordinance; and further Tenant shall properly dispose of all Hazardous Materials off the Premises consistent with all federal, state, and local laws, regulations, and ordinances. Tenant further covenants and agrees to indemnify and hold harmless Landlord from any and all losses, including all costs, expenses, other claims including attorney's fees, which Landlord incurs due to any improper disposal, release, storage, or otherwise dealing with such Hazardous Materials by Tenant. Landlord covenants and agrees to indemnify and hold harmless Tenant from any and all losses, including all costs, expenses, other claims including attorney's fees, which Tenant incurs due to any improper disposal, release, storage, or otherwise dealing with such Hazardous Materials within the Premises prior to the Commencement Date or following the termination of this Lease for any hazardous materials Landlord brings onto the Leased Premises. These indemnities shall survive the termination of this Lease. Attached hereto as Exhibit C, is a list identifying those Hazardous Materials (the "Hazardous Materials List") which shall be stored or used by Tenant in connection with its business operations within the Premises. The Hazardous Materials List shall be updated by Tenant during the Term to reflect a material change in the Hazardous Materials used by Tenant in connection with its business operations. A "material change" triggering an updated list includes the addition or deletion of a Hazardous Material or an increase or decrease of 10% or more of the quantity of a Hazardous Material stored by Tenant within the Premises.

5.4 Parking, Parking Areas: The Tenant and Tenant's employees and business invitees may park in the designated parking areas within the Premises during Tenant's normal business hours.

5.5 General Conditions: This Lease is made by Landlord and accepted by Tenant subject to the following:

- (a) Any state of facts that an accurate survey or inspection would show.

- (b) Any presently existing defect of title, easement, or right of way.
- (c) All zoning regulations affecting the Premises now or hereafter in force.
- (d) Restrictive Covenants and party wall agreements of record.
- (e) Encroachment of the Premises on any street or on adjacent property.
- (f) Projection of any portion of the Premises or equipment in or under any abutting street and the right of any governmental authority to require the removal thereof.
- (g) All ordinances, statutes, and regulations, and any presently existing violations thereof, whether or not of record.
- (h) The existing condition and state of repair of the Premises on the Commencement Date.

6. **Condition, Maintenance and Alterations:**

6.1 **Acceptance of Premises:** Tenant acknowledges with the exception of the Landlord's Work to be completed by Landlord following the Tenant's taking possession of the Premises in accordance with Exhibit D attached hereto and incorporated herein by reference, the act of taking possession of the Premises shall constitute conclusive evidence Tenant has inspected and examined the Premises and utility installations and the same are in good and satisfactory condition. The parties acknowledge that the Tenant's use of the Premises will require Tenant to make certain repairs, replacements, alterations, and improvements to the Premises at Tenant's sole cost and expense as provided in this Lease.

6.2 **Structural Additions, Alterations or Improvements:** Tenant shall not be permitted to make structural or other modifications or improvements to the Premises without prior approval in writing by Landlord, which shall not be unreasonably withheld. Provided all such improvements are approved by Landlord and made by Tenant, they shall become the property of Landlord at the termination of the within Lease thereof, unless otherwise hereinafter agreed upon by the parties in writing. Tenant agrees to pay and save harmless Landlord from any and all liens which might be placed against the Premises by persons, firms or corporation making repairs or improvements not expressly contracted for by Landlord. Tenant shall provide to Landlord adequate plans, specifications, construction drawings, and other information (and any changes thereto) necessary to reasonably inform the Landlord of the nature and extent of the work to be performed by Tenant or its contractors on the Premises.

6.3 **Condition of Premises and Repairs:**

(a) Except as otherwise provided herein, Tenant shall, at Tenant's own expense, keep, maintain and replace the Premises and all parts and systems thereof including all utility installations and equipment in order that all of them be and remain in good maintenance, replacement and repair, properly painted and decorated. All repairs, maintenance and replacements shall be performed by or

for Tenant in a prompt, workmanlike manner, shall be promptly paid for by Tenant and no liens shall be allowed to attach either to the Premises or Tenant's interest therein.

(b) Landlord shall, at Landlord's own expense, keep maintain, repair, and replace the outside walls, structural elements, and the roof of the building located on the Premises, and all subsurface conditions, landscaping, sidewalks, parking areas and other paved areas within the Premises.

6.4 Maintenance: Tenant shall not permit, allow or cause any act or deed to be performed in or about the Premises, in the building, or sidewalk or adjoining pavement, which shall cause or be likely to cause injury to any person on the Premises, or any property on the Premises or the Premises. Tenant shall at all times keep the Premises in a neat, orderly condition and shall keep entryways, and delivery areas adjoining Premises clean and free from rubbish or obstruction.

6.5 Breakage: Tenant covenants and agrees to replace and repair any broken doors or windows in the Premises at its cost and expense except when damaged by Landlord or its agents.

6.6 Trade Fixtures: Tenant shall be permitted to install trade fixtures on the Premises without necessity of consent by Landlord and shall be permitted to remove the same upon the expiration of this Lease provided Tenant is not in default and returns the Premises to the same condition in which it existed at the time of original acceptance, reasonable wear and tear excepted.

6.7 Inspection: Landlord and its agents shall have the right at all reasonable times to enter upon and inspect the Premises upon reasonable advance notice to Tenant.

6.8 Condition of Premises Upon Termination: Upon the termination of this Lease, Tenant shall return the Premises to Landlord substantially in the same condition as accepted, loss by fire or other casualty and reasonable wear and tear excepted.

7. Assignment and Subletting:

7.1 By Tenant: Tenant shall not have the right to assign this Lease, nor sublet the Premises or any portion thereof without the prior written consent of Landlord, which may be withheld, delayed or conditioned in the sole discretion of the Landlord. Notwithstanding the foregoing, the Parties acknowledge and agree that Tenant shall use its best efforts to sublet a portion of the Premises to Appalachian State University ("ASU"), or an entity identified by ASU for purposes of such Tenancy, upon such terms and conditions as Tenant and ASU may determine.

7.2 Transfer of Landlord's Interest: In the event of the sale, assignment or transfer by Landlord of its interest in the Premises or in the Lease (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligations of Landlord hereunder, Landlord shall thereupon be released except such obligations as shall have accrued prior to any such sale, assignment or transfer; and Tenant agrees to look

solely to such successor in interest of Landlord for performance of such obligations. Landlord's assignment of the Lease or of any or all of its rights herein shall in no manner affect Tenant's obligations hereunder. Tenant shall thereafter attorn and look to such assignee, as Landlord, provided Tenant has received written notice of such assignment of Landlord's interest. In the event of any assignment by Landlord of its interest in this Lease, or the Rents payable hereunder, conditional in nature or otherwise, which assignment is made to or held by a bank, trust company or insurance company holding a Mortgage or being the beneficiary under a Deed of Trust on the Premises, Tenant agrees the execution thereof by Landlord, and the acceptance thereof by such holder or beneficiary shall never be deemed an assumption by such holder or beneficiary of any of the obligations of Landlord hereunder, unless such holder or beneficiary shall, by written notice sent to Tenant, specifically otherwise elect.

7.3 Transfer of Rights to Receive Rent: Landlord shall have the right, without selling its fee interest in the Premises or assigning its interest in the Premises or assigning its interest in this Lease to assign from time to time the whole Rent at any time payable hereunder to persons, firms, corporations, trust or other entities designated by Landlord in written notice to Tenant and in any such case Tenant shall pay the Rent subject to the terms of this Lease to Landlord as designee at the address set forth in any such notice for the period covered by such assignment.

7.4 Estoppel Certificate: Within ten (10) days after request therefore by Landlord or if upon any sale, assignment or other transfer of the Premises by Landlord, an estoppel certificate shall be required from Tenant, Tenant shall deliver in recordable form a statement to any proposed transferee, or to Landlord, certifying any facts that are then true with respect to this Lease Agreement, including, without limitation (if such be the case), that this Lease Agreement is in full force and effect, that Tenant is in possession, that Tenant had commenced the payment of the Rent, and that there are no defenses or offsets to the Lease Agreement claimed by Tenant.

7.5 Attornment: Tenant covenants and agrees that if by reason of any default under any obligation of the Landlord secured by the Premises or if the Landlord shall sell, assign, or transfer in any manner its fee ownership of the Premises or Landlord's rights under this Lease terminate, Tenant shall attorn to the then holder of the Tenant's rights to the Premises or this Lease and will recognize such holder as the Tenant's Landlord under this Lease. Tenant, in consideration of the foregoing, waives the provision of any statute or rule of law now or hereafter in effect which may give or purport to give Tenant any right of election to terminate this Lease or to surrender possession of the Premises demised hereby in the event any proceeding is brought by the Landlord under any such underlying lease to terminate the same, and agrees that the rights and obligations of Tenant hereunder shall not be affected in any manner whatsoever by any such proceedings or actions.

8. Insurance, Liability, Indemnity and Casualty:

8.1 Insurance: Landlord shall carry, at Landlord's expense, All Risk insurance with fire and extended coverage insuring against loss or damage to the buildings and/or other improvements on the Premises to the maximum, full replacement cost. Tenant shall carry, at Tenant's expense, All Risk insurance with fire and extended coverage insuring against loss or damage to Tenant's furnishings, fixtures, inventory, equipment and other property situated or

placed upon, in or about the Premises to the maximum, full replacement cost, insurable value thereof with a deductible amount as determined by Tenant. All insurance required hereby shall be kept in force during the entire Term.

8.2 Landlord Not Liable for Damages: Tenant agrees Landlord will not be responsible to Tenant for damages or injuries to Tenant, or to the Premises, by virtue of broken water pipes, leaks from sprinkler or heating/air conditioning system(s), if any, or from the roof or by virtue of earthquakes, riots, windstorms, overflow of water from surface drainage, rains, water, fire or by any elements or Acts of God, or by the neglect of any person or persons, except where the same shall arise based upon the negligent act or omission of Landlord, its agents, employees, or contractors. Notwithstanding the foregoing, Landlord covenants to indemnify, defend, and hold Tenant harmless from the claims, penalties or demands of any and all persons, firms and corporations for personal injury or damage to property arising out of or in connection with Landlord's use and occupancy of the Premises as contemplated herein, and the Landlord's use and occupancy, and the use and occupancy by those other than the Tenant, of the EcoComplex.

8.3 Hold Harmless Clause and Public Liability Insurance: Tenant covenants to indemnify, defend, and hold Landlord harmless from the claims, penalties or demands of any and all persons, firms and corporations for personal injury or damage to property arising out of or in connection with Tenant's use and occupancy of the Premises. Tenant shall maintain and carry, at all times during the Term hereof, public liability insurance with a company authorized to do business in North Carolina with a rating of AAA or better as determined by A. M. Best and Company, in the minimum amount of One Million dollars (\$1,000,000) single limit and Two Million dollars (\$2,000,000.00) aggregate, bodily injury, death and property damages. Tenant shall deliver to Landlord memorandum policies of such coverage with companies reasonably satisfactory to Landlord and naming Landlord as an additional insured therein. Additionally, Tenant shall maintain at all times during the Term hereof, business automobile insurance in the minimum amount of One Million dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury and property damage liability. The business automobile insurance policy must include the MCS-90 endorsement. Landlord must be named as an additional insured under Tenant's automobile and general liability insurance.

8.4 Workers' Compensation: Tenant shall obtain, at its own expense, workers' compensation insurance in accordance with the laws of North Carolina. The workers' compensation policy must contain a waiver of subrogation in favor of Landlord.

8.5 Fire or Casualty: If the Premises shall be damaged or destroyed by fire or other casualty to the extent it would require in excess of ninety (90) days from the date of such fire or other casualty to repair or reconstruct the Premises, then either Party shall have the right to cancel this Lease Agreement upon written Notice to the other, given not more than thirty (30) days following the date of the event giving rise to such termination. If such fire or other casualty requires less than ninety (90) days to repair or reconstruct the Premises, Landlord agrees to promptly effect such repairs or reconstruction and during such time as repairs or reconstruction are being made, the Rents hereinabove agreed upon shall be abated to the extent and in the proportion the Premises are untenable for the normal use thereof by Tenant, provided the abatement of Rents shall become effective at such time as Tenant makes the Premises available to the Landlord to effect such repairs or reconstruction.

8.6 Waiver of Subrogation: Neither Landlord nor Tenant nor anyone claiming by, through, under or in their behalf shall have any claim, right of action or right of subrogation one against the other for or based upon any loss or damage caused by fire, explosion or other casualty relating to the Premises or property herein or the building in which the Premises are located, whether such fire, explosion or other casualty shall arise from the negligence of Landlord or Tenant, their respective agents or employees, customers or otherwise.

8.7 General: All insurance put forth to satisfy requirements contained in Sections 8.1 through 8.6 shall require the insurer to provide a minimum of sixty (60) days notice to Landlord of any material change in coverage, cancellation, or non-renewal. Upon Landlord's request, Tenant shall provide certificates of insurance to Landlord as evidence of the insurance required hereunder.

9. **Taxes**:

The Parties acknowledge and agree that because the Premises is owned by a political subdivision of the State of North Carolina, that no ad valorem real property taxes shall be assessed against the Premises. In the event of a transfer of ownership from Landlord to a third party, or otherwise, resulting in the assessment of taxes against the Premises, then Landlord, or Landlord's successor in interest, shall pay all taxes and assessments of every nature assessed against the Premises. Tenant shall be responsible for the payment of any ad valorem or other personal property taxes assessed against any stored goods or any contents placed on the Premises or on any machinery, equipment, or fixtures, located thereon which are owned by Tenant.

10. **Condemnation**:

In the event the whole or any substantial part of the Premises, such that the Premises is are not reasonably usable by Tenant, shall be taken by public authority under the power of eminent domain, Tenant shall have the option to terminate the within Lease Agreement, but notwithstanding whether Tenant exercised such option the Term and Rents specified herein shall terminate as to the part of the Premises taken, effective as of the date possession thereof shall be required to be delivered pursuant to the final agreement, order, judgment or decree entered in the exercise of such power. All damages or awards for such taking shall be payable in full to Landlord and shall be the property of Landlord including, but not limited to, any sums paid or payable as compensation for loss of value of the leasehold or loss of the fee of any part of the Premises.

11. **Mortgage of Premises**:

11.1 Subordination to Mortgages: At the option of Landlord this Lease shall be subordinated to the lien of any mortgage or deed of trust, hereinafter referred to as "Mortgage", which Landlord may at any time place on the Premises and Tenant shall execute any instrument which may be required to effectuate such subordination. At Tenant's request, and at Tenant's expense, Landlord shall endeavor to deliver to Tenant a recordable agreement signed by the mortgagee providing in substance that as long as Tenant shall discharge its obligations under this Lease, the tenancy shall not be disturbed and shall not be affected by any default under the

mortgage, and in the event of foreclosure, the rights of Tenant shall survive and the Lease shall continue in full force and effect, including any Term, if any, contained herein.

11.2 Notice and Right to Cure: If Landlord shall notify Tenant of the placing of any Mortgage or Deed of Trust against the Premises, Tenant agrees in the event of any act or omission by Landlord or any other occurrence which would give Tenant the right to terminate this Lease, to claim a partial or total eviction, or to reduce any Rent payments hereunder, Tenant shall not exercise any such rights (a) until it has notified in writing by Certified Mail, Return Receipt Requested, the holder of any such Mortgage or the beneficiary under any such deed of trust which at the time shall be a lien on the Premises and of which it has notice of such act or omission, (b) until a reasonable period, not exceeding sixty (60) days, for commencing the remedying of such act or omission shall have elapsed following the giving of such notice, and (c) Landlord or such holder or beneficiary, with reasonable diligence shall not have so commenced and continued to remedy such act or omission or cause the same to be remedied.

12. **Default**:

12.1 Event of Default: Any one or all of the following events shall constitute an Event of Default hereunder:

(a) if Tenant, or any successor or assignee of Tenant which is in possession of the Premises, shall file a petition in Bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors;

(b) if involuntary proceedings under any bankruptcy law or insolvency act or receivership action shall be instituted against Tenant, or if any receiver or trustee shall be appointed for all, or substantially all, of the property of Tenant, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within sixty (60) days after the institution or appointment;

(c) if Tenant shall fail to pay any Rent or other sum due from it to Landlord or any other party in strict accordance with the provisions of this Lease, and if such failure shall continue for a period of fifteen (15) days after written notice thereof from Landlord to Tenant. For the purposes hereof, all sums due from Tenant to Landlord shall constitute Rent whether denominated as Rents or otherwise elsewhere herein;

(d) if Tenant shall fail to fully perform or comply with all of the conditions or covenants of this Lease, and if the nonperformance or failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant or, if the performance cannot be reasonably completed with the thirty (30) day period, the Tenant shall not in good faith have commenced performance within the thirty (30) day period and shall not have diligently proceeded to completion of performance;

(e) if Tenant shall vacate or abandon the Premises; or

(f) if any interest of Tenant in this Lease or the Premises shall be transferred, levied upon, assigned, or shall pass to or evolve to any other person, firm or corporation, whether voluntarily or involuntarily, except as herein permitted.

12.2 Remedies: Upon the occurrence of any Event of Default as set forth above, Landlord shall have the right, at its option, to utilize any one or more of the following remedies:

(a) Landlord shall have the right to cancel and terminate this Lease, as well as all of the right, title and interest of the Tenant hereunder by giving to Tenant notice of such cancellation at the Premises, whereupon, this Lease and all right, title and interest of the Tenant hereunder shall terminate and the Tenant shall have no further rights under this Lease; but such cancellation shall not serve to release or discharge Tenant from any liability to Landlord; and/or

(b) Landlord may elect, but shall not be obligated, to make any payment required of Tenant herein or to correct any condition required to be corrected by Tenant, or comply with any agreement, term or condition required hereby to be performed by Tenant, and Landlord shall have the right to enter the Premises for the purpose of correcting or remedying such condition or default and remain on the Premises until the complete correction of such condition, however, no expenditure for any correction by Landlord on behalf of Tenant shall be deemed to waive or release Tenant's breach hereof, Landlord shall retain all rights to proceed against Tenant as set forth herein and Tenant shall be liable for all costs incurred by Landlord; and/or

(c) Landlord may reenter the Premises immediately with or without order of Court without being guilty of trespassing and remove the property and personnel of Tenant and store such property in a public warehouse or at any such other location selected by Landlord, all at the sole expense of Tenant. After such reentry, Landlord shall have the right to terminate this Lease by giving notice of termination to Tenant, but without such notice, the reentry by Landlord shall not terminate this Lease. Upon termination, Landlord may recover from Tenant all damages resulting from Tenant's breach, including but not limited to the cost of recovery of the Premises and placing them in satisfactory condition, the value of the balance of this Lease over the reasonable rental value of the Premises for the remainder of the Term, all of which sums shall be immediately and payable to Landlord; and,

(d) Landlord may rent the Premises or any part thereof for any term with or without terminating the Lease, and at such rentals and upon such other terms as Landlord may elect, and to alter and repair the Premises as Landlord shall deem necessary. The duties and liabilities of the parties if the Premises are relet as provided herein shall be as follows:

1. In addition to Tenant's liability to Landlord for the breach of the Lease, Tenant shall be liable for all expenses of reletting, including brokers, or finder's fees and such reasonable attorney's fees as Landlord may incur, for alterations and repairs made, for the

difference between the rent received by Landlord and as provided under this Lease;

2. Landlord shall have the right, but shall not be required to apply the rent received from reletting the Premises (a) to reduce the indebtedness of Tenant to Landlord under the Lease, not including the indebtedness for Rent, (b) to the expenses of reletting and alterations and repairs made, (c) to Rents due under this Lease, or (d) to payment of future Rent under this Lease as it becomes due;
3. If the new lessee does not pay a rental installment promptly to Landlord, and the rental installment has been credited in advance of payment to the indebtedness of Tenant other than Rent, or if rentals from the new lessee have been otherwise applied by the Landlord as provided for herein and during any rental installment period for less than the rental payable for the corresponding installment period under this Lease, Tenant shall pay Landlord the deficiency, separately, from each rental installment deficiency period and before the end of that period. Landlord may at any time after a reletting terminate the Lease for the breach on which Landlord has based the reentry or subsequently relet the Premises.

(e) In no event shall Landlord's termination of this Lease Agreement or Tenant's right to possession of the Premises abrogate Tenant's agreement to pay Rent and additional charges due hereunder for the Term hereof.

(f) All of the rights and remedies provided by law to a Landlord with defaulting Tenant including all such money damages as Landlord shall be entitled pursuant to the law of damages.

12.3 Costs and Attorney's Fees: Upon any breach hereof by Tenant, regardless of whether such breach is, or becomes, an Event of Default, Landlord shall be reimbursed by Tenant for any and all costs including clean-up charges, damages and repair charges and attorney's fees incurred by Landlord in connection with such breach and including service charges and all real estate commissions on all applicable payments for services rendered and interest at twelve percent (12%) per annum from date due until paid.

13. General Matters:

13.1 Holding Over: In the event Tenant remains in possession of the Premises after expiration of this Lease, including any exercised Term, if any, without mutual written agreement to the contrary, Tenant shall not acquire any right, title or interest in or to the Premises, and in such event, Tenant shall occupy the Premises as a Tenant from month to month, with Rent equal to one hundred fifty percent (150%) of the Rent amount prior to expiration of the Term, and otherwise be subject to all of the conditions, provisions and obligations of this Lease insofar as the same shall be applicable.

13.2 Covenants of Title and Quiet Enjoyment: Landlord warrants that it is the sole owner of the Premises; it has the right to enter into this Lease; that on paying Rent and keeping and performing the agreements and covenants contained herein, Tenant shall have quiet and peaceable possession of the Premises during the term hereof, free from interruption or disturbance by Landlord or others.

13.3 Memorandum of Lease: The Parties agree to execute a Memorandum of Lease for recording purposes if requested by any one of the Parties hereto, to be prepared and recorded at the expense of the requesting Party.

13.4 Notices: All notices required under this Lease shall be deemed to be properly served and shall be only served when posted by Certified United States Mail, Postage Prepaid, Return Receipt Requested, addressed to the party to whom directed at the address herein set forth or at such other address as may from time to time be designated in writing:

TO LANDLORD:

To Landlord at the address set forth
for delivery of Rent.

TO TENANT:

To Tenant at the Premises

13.5 Applicable Law: This Lease is entered into in the State of North Carolina and shall be construed according to its laws, statutes and ordinances.

13.6 Venue: The parties covenant and agree that to the extent by law permitted the proper venue of any civil action brought concerning this Lease Agreement or any portion hereof shall be in Catawba County, North Carolina.

13.7 Effect of Waiver or Forbearance: No waiver by Landlord of any breach by Tenant of any of its obligations, agreements or covenants hereunder shall be a waiver of any subsequent breach or of any other obligation, agreement or covenant, nor shall any forbearance by Landlord to seek a remedy for any breach by Tenant be a waiver by Landlord of its rights and remedies with respect to such or any subsequent breach.

13.8 Release: At the final termination of this Lease, Tenant shall, if requested by Landlord, execute and deliver to Landlord an appropriate release in form proper for recording of all Tenant's interest in the Premises.

13.9 Severability: If any provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

13.10 Interpretation: The captions and table of contents, if any, used in this Lease are for convenience only and do not in any way limit or amplify the terms or provisions hereof. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural may be substituted for the singular number in any place or places herein in which the context may require such substitution or substitutions.

13.11 Successors and Assigns: The covenants and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, provided nothing herein shall be construed to permit a transfer or assignment expressly prohibited by the terms of this Lease.

13.12 Entire Agreement: The within agreement, including all those agreements incorporated herein by reference, constitutes the entire agreement by and between the parties hereto, both parties acknowledging the absence of any other representations not herein contained, and shall not be modified or otherwise amended except by written agreement subsequently entered into.

13.13 Force Majeure: In the event the Landlord or Tenant shall be delayed, hindered in, or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, the act, failure to act or default of the other party, war, fire, water, windstorm, or other reason beyond their control, the performance of such act shall be excused for the period of delay and the period of performance of any act shall be extended for a period equivalent to the period of delay.

13.14 Construction: This Lease shall not be construed more strictly against either party regardless of which party is responsible for the preparation of the same.

13.15 Time: Time is of the essence in regard to each and every term, covenant and condition of this Lease.

13.16 Landlord use of Premises: The Tenant agrees to reasonably cooperate with Landlord to permit Landlord access to the Premises from time to time during the Term for the purpose of conducting educational tours of the Premises and Tenant's biodiesel production facilities. Tenant further agrees to reasonably cooperate with Landlord to permit Landlord to utilize the lobby and conference rooms located within the Premises for holding meetings from time to time. Provided, however, that all such use and access by Landlord shall not unreasonably interfere with Tenant's business operations within the Premises. Landlord shall coordinate all such use in advance. Tenant shall have the right to deny access to any group or individual when, in the discretion of Tenant, such access would be detrimental to the business operations of Tenant.

13.17 Production Reports. Upon Landlord's request, but no more frequently than once each calendar quarter during the Term, Tenant shall provide Landlord with reports identifying the volume of biodiesel and ancillary products produced by Tenant within the Premises. The Parties acknowledge and agree that such reports are to be used by Landlord in connection with its promotion of the EcoComplex, and the identification of the renewable energy being produced and research being conducted therein. The Parties further acknowledge and agree that except as specifically provided herein, the Tenant has no production requirements, or limits, in connection with its business operations within the Premises, and that the reporting set forth in the Paragraph 13.17 shall not be construed so as to create such a production minimum or limit.

13.18 Biodiesel Supply to other Catawba County Fleets. Upon the request by other Landlord controlled fleets, including without limitation Catawba County Schools, Newton Conover City Schools, and Hickory City Schools, Tenant will offer pricing discounts which are similar to those provided to the Landlord as set forth herein, subject to delivery charges and such other terms and conditions as the Tenant and such other fleet owners may otherwise agree.

(signatures appear on following page)

IN WITNESS WHEREOF, the Parties have caused this Lease Agreement to be executed by their duly authorized officers the day and year first above written.

LANDLORD:

Catawba County

By: _____
Katherine W. Barnes, Chairman

TENANT:

Blue Ridge Bioifuels, LLC,
a North Carolina limited liability company

By: _____
Woodrow Eaton, General Manager

**EXHIBIT A
DESCRIPTION OF THE PREMISES**

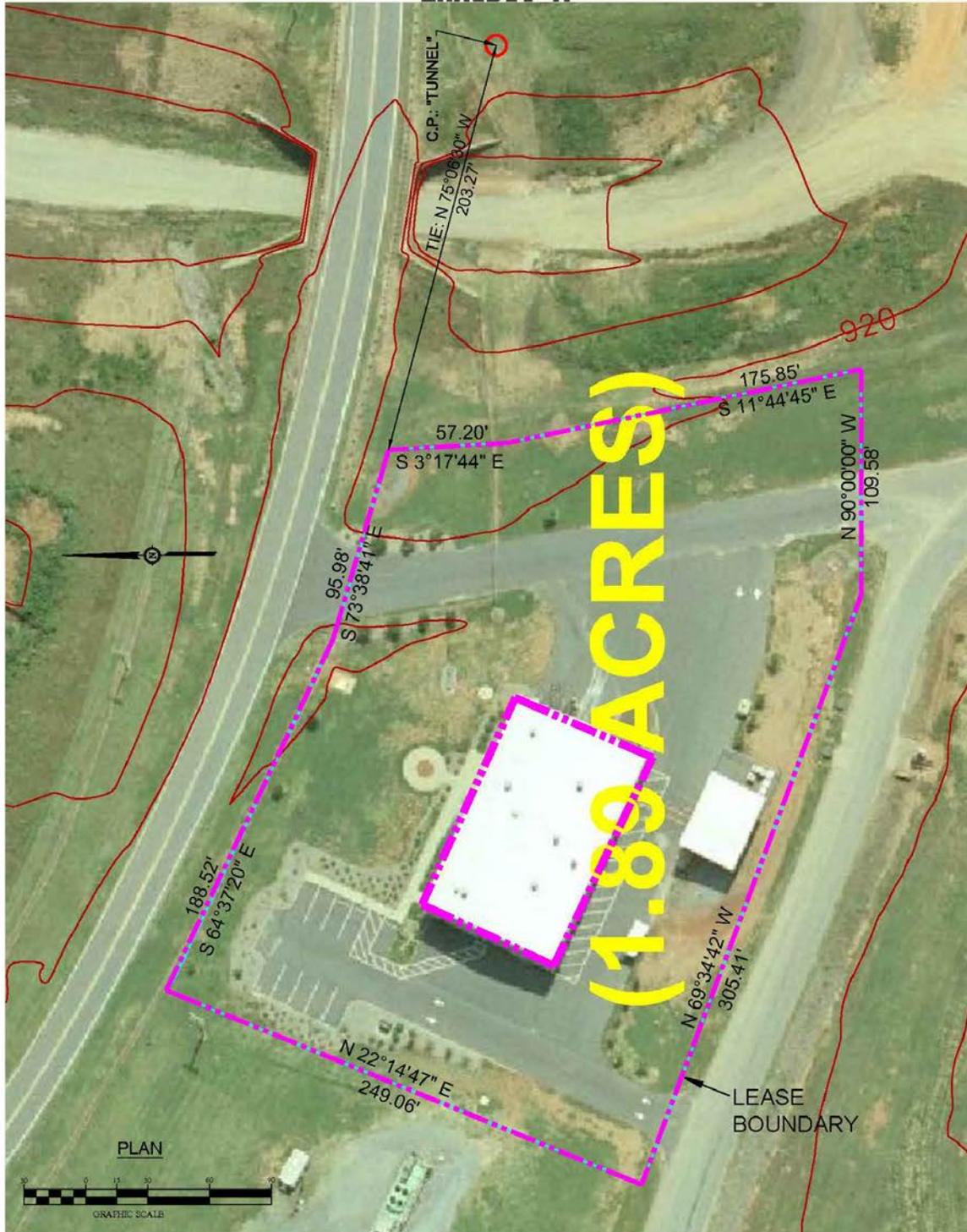


EXHIBIT B
BIODIESEL SUPPLY AGREEMENT

Commencing not more than one (1) year from the Commencement Date, and thereafter during the Term of the Lease, the Landlord and Tenant agree that Tenant shall supply Landlord, and Landlord shall purchase from Tenant B10 blended biodiesel fuel ("B10") upon the following terms and conditions:

1. **Supply.** Tenant shall sell to Landlord, and Landlord shall purchase from Tenant, up to seven thousand (7,000) gallons of B10 each calendar month during the Term upon the price terms provided herein.
2. **Delivery.** Tenant shall deliver the B10 to Landlord within ten (10) days following receipt of Landlord's monthly purchase order (the "Delivery Date") to a storage tank designated by Landlord located within the Property. Landlord acknowledges and agrees that it shall install and maintain at Landlord's sole cost and expense a storage tank having a capacity of not less than ten thousand (10,000) gallons for such purpose.
3. **Price.** The price of the B10 shall be calculated as of the Delivery Date, based upon a composite of the two input materials, with ninety percent (90%) being attributed to the Diesel Price and ten percent (10%) being attributed to the B100 price, as follows:
 - a. **Diesel Price:** On the Delivery Date, the Tenant shall obtain the rack price for petroleum diesel from three (3) of its approved suppliers. The Diesel Price shall be the lowest of the three per gallon rack prices for petroleum diesel published on the Delivery Date, plus two cents (\$0.02) per gallon; plus
 - b. **B100 Price:** The per gallon price of ULSD#2 Tank Wagon price for Catawba County as published by the NC Department of Administration Division of Purchases and Contracts, as of the week of the Delivery Date, less twenty cents (\$0.20) per gallon; plus
 - c. All delivery expenses charged to or incurred by Tenant in connection with the B10.
4. **Payment.** Payments for B10 shall be due and payable to Tenant thirty (30) days following the Invoice date.
5. **Subsidy Allocation.** Tenant shall retain all rights to any State or Federal tax credits, subsidies, or other incentives, however designated, including without limitation all EPA RFS Rins, and USDA Bioenergy Program payments in connection with the Tenant's production of B10 hereunder.
6. **Performance Bond.** During the Term of the Lease, Tenant shall provide Landlord with a performance bond in the amount of Thirty Thousand and no/100s dollars (\$30,000.00) (the "Performance Bond") for the guaranteed supply of B10 as provided herein. In the event Tenant is unable to obtain the Performance Bond on commercially reasonable

terms, in the reasonable discretion of Tenant, then the Landlord shall have the right, but not the obligation, to terminate this Lease upon not less than one hundred twenty (120) days Notice to Tenant. Provided, however, that if Tenant has secured the Performance Bond prior to Landlord's Notice of termination pursuant to this Paragraph 6, then this Lease shall not be terminated and Tenant shall be entitled to remain in possession of the Premises.

**EXHIBIT C
HAZARDOUS MATERIALS LIST**

Inventory Item	Max Quantity On Hand	Unit
Vegetable Oil	40,000	gal
Methanol	13,000	gal
Potassium Hydroxide	8000	lbs.
Sulfuric Acid	150	gal
Aluminum Chloride	150	gal
Biodiesel	78,000	gal
Glycerin	10,000	gal
Diesel	16000	gal
Ethanox (anti-oxidant)	55	gal
Santaquin (anti-oxidant)	55	gal
Isopropyl alcohol	10	gal
Mineral Spirits	10	gal
Calcium Hydride	0.5	lbs.
Power Service (anti gel)	110	gal
Red Dye (for off road diesel)	5	gal
miscellaneous lab supplies	<1	gal

EXHIBIT D
LANDLORD'S WORK

Landlord agrees to construct at Landlords expense a retaining dike for bulk storage of Tenant's liquid inventory having a capacity to contain not less than twenty two thousand (22,000) gallons, with dimensions not less than thirty four feet (34') by ninety four feet (94') (the "Retaining Dike"). The Retaining Dike shall be located within the Premises as shown below, and shall be completed prior to the Commencement Date.

Location of Retaining Dike:

Appointments

**BARBARA BEATTY (Due) Catawba Valley Medical Center (CVMC) Board of Trustees
Commissioner Beatty and the CVMC Board of Trustees recommends the appointment of
Jearald Leonhard for an unexpired term to succeed Jay Reardon on the Catawba Valley
Medical Center Board of Trustees. Mr. Leonhard's term will expire December 31, 2015.**

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Mark A. Logan, Tax Administrator

DATE: October 6, 2014

SUBJECT: PUBLIC HEARING ON THE PROPOSED SCHEDULE OF
VALUES, STANDARDS AND RULES FOR THE CATAWBA COUNTY
2015 REVALUATION

REQUEST:

The Catawba County Tax Assessor requests the Catawba County Board of Commissioners hold a public hearing on the proposed Schedule of Values, Standards, and Rules for Catawba County's 2015 Revaluation as prescribed by North Carolina General Statute 105-317. Also, included is the timeline for ultimate adoption of the proposed Schedule of Values, Standards, and Rules that meets statutory requirements.

BACKGROUND:

Pursuant to a resolution adopted by the Catawba County Board of Commissioners on October 3, 2011, Catawba County's next countywide revaluation will become effective January 1, 2015. Catawba County has approximately 87,000 separate parcels of land which are required by state law to be appraised at 100% of market value as of the effective revaluation date. To that end, Catawba County staff has worked for many months analyzing data derived from real estate sales, building cost data, and income and expense statements from income producing properties in the County. This has culminated in the formulation of a proposed Schedule of Values, Standards, and Rules to be utilized to generate market value appraisals for all real property in Catawba County.

The Schedule of Values is a set of standards and rules that are used as an appraisal manual by the County appraisal staff to assure properties are valued in an accurate and consistent manner. The schedule contains information on methods used to determine land and building values based upon criteria such as: location, age, type of construction, zoning, income potential, cost, etc.

Also included in the proposed Schedule of Values is a special schedule for appraising eligible agricultural, horticultural, and forest land at its "present use" value. This schedule is a statewide schedule formulated by the North Carolina Department of Revenue. Properties whose owners qualify for "present use" assessment will receive two values: a market value mandated by law and a "present use" value.

Adoption of the proposed Schedule of Values is an important step in the revaluation process. Because of its importance, the Machinery Act of North Carolina requires the Board of Commissioners to only adopt it after holding a public hearing and then publicizing that it has

done so. After the adoption, property owners will have 30 days to challenge the Schedule of Values by appeal to the North Carolina State Property Tax Commission.

In accordance with North Carolina General Statute 105-317(c), the proposed Schedule of Values has been formally presented to the Board of Commissioners at their September 8, 2014 meeting. The Board of Commissioners notified the public on September 9, 2014 through newspapers of general circulation that it had received the proposed Schedule of Values and that it is open for inspection at the Assessor's office. The notice also informed the public that a public hearing would be held on October 6, 2014, at 9:30 a.m., in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse.

It is recommended the vote for formal adoption occur at the October 20, 2014 meeting in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse. Afterwards, a newspaper notice must be published stating that the Schedule of Values has been adopted and that property owners have 30 days from the date of the first publication to challenge the Schedule of Values by appeal to the North Carolina State Property Tax Commission on grounds that the Schedule of Values does not adhere to the appropriate statutory valuation standard (that it will produce values that are too high, too low, or inconsistent). The North Carolina State Property Tax Commission has the power to order the Board of Commissioners to revise the Schedule of Values if they do not adhere to the statutory valuation standard. The North Carolina State Property Tax Commission's decision may be appealed to the North Carolina Court of Appeals. Assuming an October 20, 2014 adoption, property owners will have until Wednesday, November 19, 2014 to challenge the Schedule of Values.

An upcoming timeline follows:

Monday, October 20, 2014 -- 7:00 pm, 1924 Courthouse

Formal adoption of the proposed Schedule of Values by the Board of Commissioners.

Tuesday, October 21, 2014

Board of Commissioners publishes 1st notice of adoption in newspaper. (Taxpayer must appeal adoption within 30 days of this date to the North Carolina Property Tax Commission).

Sunday, October 26, 2014

Publish 2nd notice of adoption.

Thursday, November 6, 2014

Publish 3rd notice of adoption.

Wednesday, November 12, 2014

Publish 4th notice of adoption. (Four notices are required by Statute).

Wednesday, November 19, 2014

Last day for taxpayer to appeal adoption of the Schedule of Values.

RECOMMENDATION:

Staff recommends the Catawba County Board of Commissioners conduct a public hearing on the proposed Schedule of Values.

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: John Eller, Social Services Director
Dewey Harris, Assistant County Manager

Date: October 6, 2014

IN RE: North Carolina Association of County Commissioners (NCACC) 2015-16 Long Session
Legislative Goals Submission

REQUEST

Staff recommends the Board of Commissioners approve proposed 2015-16 Long Session Legislative Goals for consideration by the North Carolina Association of County Commissioners (NCACC).

BACKGROUND

The following are the proposed legislative goals submitted to the NCACC for consideration during the Associations' 2015-16 Long Session legislative goals process.

- 1) Support the expansion of sales tax options and flexibility for North Carolina counties.
- 2) Oppose the State shifting or cutting money from federal and state block grants (TANF, SSBG, & CCDBG) for mandated services
- 3) Support State aid to public libraries by eliminating special provisions that distribute funding outside of the established equitable formula developed by the State Library Commission.
- 4) Support for broadband expansion.
- 5) Support the ban of Rhesus Macaque Monkeys.
- 6) Support amending North Carolina General Statute 132-1(b) to address the public records law as it relates to non-North Carolina businesses/citizens.
- 7) Support legislation to stimulate economic development activities including incentive programs, workforce development, and job creation programs.

In addition to these above goals, the following is proposed as a guiding principle with NCACC's intergovernmental relations committee, working with the Executive Branch regarding economic development:

Work with the Executive Branch to strengthen the partnership between the State and Counties to ensure there are the correct tools and internal processes in place to provide seamless delivery of economic development programs, including job recruitment and workforce development training opportunities.

RECOMMENDATION

Staff recommends the Board of Commissioners approve the proposed 2015-16 Long Session Legislative Goals for consideration by the North Carolina Association of County Commissioners (NCACC).