

AGENDA

Catawba County Board of Commissioners Meeting
Monday, June 6, 2016, 9:30 a.m.
Robert E. Hibbitts Meeting Room, 1924 Courthouse
30 North College Avenue, Newton, NC

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Invocation.
4. [Approval of the Minutes from the Board's Regular Meeting May 2, 2016, the Special Meeting and Closed Session of May 7, 2016, and the Special Meeting and Closed Session of May 22, 2016.](#)
5. Recognition of Special Guests.
6. Public Comments.
7. Presentations:
 - a. [Presentation of Badge and Service Weapon \(after declared surplus by the Board of Commissioners\) of Retired Deputy Sheriff Joel Fish by the Board of Commissioners to Representative from the Sherriff's Office.](#)
 - b. Update from Partners Behavioral Health Management. *Presented by Tara Conrad, Regional Director of Community Operations.*
8. [Appointments.](#)
Tax Collector and Deputy Tax Collector. *Appointed by County Manager J. Thomas Lundy.*
9. Consent Agenda:
 - a. [Juvenile Crime Prevention Council Annual Plan for FY2017.](#)
 - b. [Extension of Lease with Duke Energy Carolinas for the Sherrills Ford Convenience Center Site.](#)
10. Departmental Reports.
 - A. Planning and Parks.
[Duke Energy Water Resources Fund - \\$100,000 Grant for Observation Platform at Riverbend Park. Presentation of Check by Robin Nicholson, District Manager, Government and Community Relations, Duke Energy; Request for Appropriations presented by Planning and Parks Director Jacky Eubanks.](#)
 - B. Utilities and Engineering.
[Land Lease and Sale of Landfill Gas. Presented by County Attorney Debra Bechtel and Utilities and Engineering Director Barry Edwards](#)
11. Other Items of Business.
Adoption of the Catawba County Annual Budget for Fiscal Year 2016-17.
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, June 20, 2016, at 7:00 p.m., in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton.



**PREVIEW OF COUNTY COMMISSION AGENDA
JUNE 6, 2016, 9:30 A.M.
ROBERT E. HIBBITTS MEETING ROOM
1924 COURTHOUSE, NEWTON, N.C.**



The Catawba County Board of Commissioners will adopt a Fiscal Year 2016-2017 County Budget, which keeps the County's property tax rate unchanged while it invests to enhance the quality of life in the County and harness positive momentum of the local economy, when the Board meets at 9:30 a.m. on Monday, June 6, 2016, at the 1924 Courthouse at 30 North College Avenue in Newton.

The Board will consider a ground lease with Apple, Inc. to lease approximately 3.713+- acres at the Blackburn Resource Recovery Facility on Rocky Ford Road; and an associated Landfill Gas Sales Agreement with Quadrogen, Inc. The Board will consider a lease amendment with Duke Energy Carolinas that will allow the County to continue to offer uninterrupted solid waste and recycling convenience center services to the Sherrills Ford area at the Sherrills Ford Convenience Center site.

The Board will formally receive a donation in the amount of \$100,000 from Duke Energy of the Carolinas, which will be used to replace an ADA-accessible fishing platform at Riverbend Park that was destroyed in severe flooding in 2013. The Board will also consider a recommended Annual Plan for the Catawba County Juvenile Crime Prevention Council for Fiscal Year 2016-2017.

The Board will recognize retired Deputy Sheriff Joel Fish with the traditional presentation of his badge and service weapon. And the Board will receive an update from Partners Behavioral Health Management, which manages a behavioral health care system in Catawba, Burke, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin counties.

PRESENTATIONS

A. The Board will honor Sheriff's Deputy Joel E. Fish, Jr, who retired effective June 1, 2016, after over 17 years with the Catawba County Sheriff's Office. Under North Carolina General Statute 20-187.2, the Board will consider declaring as surplus the service weapon and badge of Deputy Fish and present those items to a representative of the Sheriff's Office, who will ensure they are delivered to Deputy Fish in Oregon where he is now residing.

B. The Board will receive an update on Partners Behavioral Health Management from Ms. Tara Conrad, Regional Director of Community Operations.

CONSENT AGENDA

A. The Board will consider the proposed Fiscal Year 2017 Annual Plan for the Catawba County Juvenile Crime Prevention Council (JCPC). The Plan includes the JCPC-recommended proposed funding plan. The JCPC is an organization established by the North Carolina Department of Public Safety's Division of Juvenile Justice. It exists to identify risks for youth in the community; prevent crime among at-risk youth; review court data; and identify needed programs to provide intervention and prevention. Funding is allocated by the State, distributed to the County, and then to programs. Membership is determined mostly by the North Carolina General Statute that established the JCPC. Representatives on the Council are those involved with youth.

Every year, the JCPC must follow a process that begins with prioritizing risks and needs, with the final step being approval of a funding plan. The risks and needs priorities are determined in the fall and early winter, and approval of the funding plan occurs in the spring. Steps in developing the plan include identification of risk factors based on court data; development of a list of priorities to address risk factors, and review and approval of priorities. Once priorities are developed, the JCPC advertises for programs to submit proposals to address risk factors, reviews proposals and recommends a funding plan to the JCPC, which is subject to the State of North Carolina budget.

In the spring, and once proposals are received, the JCPC develops an Annual Plan and submits the Plan to the Board of Commissioners. The State has advised local JCPCs to plan for the same funding as received in FY 2016, which is \$332,366. The recommended funding for next year and the services provided are as follows: Conflict Resolution Center: \$51,524, for mediation and Lifeskills classes; Cognitive Connection: \$104,990, for counseling regarding substance abuse,

and assessments; Family Centered Treatment: \$33,264 for home based family counseling; Family Guidance Center: \$34,396 for parent education; Project Challenge: \$65,489 for restitution/community service; Repay: \$29,205 for sex offender assessment and treatment; and JCPC Administration: \$13,498. The Plan does not require any County funding. The Board's Finance and Personnel Subcommittee recommends approval of the recommended JCPC Funding Plan.

B. The Board will consider authorizing County Manager J. Thomas Lundy to execute a Lease Amendment with Duke Energy Carolinas that allows Catawba County to continue to offer uninterrupted solid waste and recycling convenience center services to the Sherrills Ford area.

Duke Energy Carolinas has been very gracious and willing to extend the terms of the existing lease agreement through this Amendment to June 30, 2025. The time frame and annual rental amount is as follows: July 1, 2016 – June 30, 2018: \$1,100; July 1, 2018 – June 30, 2021: \$1,250; and July 1, 2021 – June 30, 2025: \$1,300.

The agreement provides an "out clause" or termination by either party by means of 60 days written notice effective on the 60th day, but allows one year for the County to vacate the property while continuing to operate the site during the one year period. The annual rent during the one year termination period will be pro-rated based on the date the County vacates the property. County staff has reviewed and approved the agreement as written by Duke Energy Carolinas. The Board's Policy and Public Works Subcommittee recommends authorizing the County Manager to execute this lease.

DEPARTMENTAL REPORTS

A. PLANNING AND PARKS

The Board will consider a project budget ordinance in the amount of \$100,000 to construct a Catawba River Observation Platform at Riverbend Park, replacing a wooden structure destroyed in the 2013 flood. Catawba County Planning and Parks Department re-applied to the North Carolina Community Foundation on January 21, 2016, for Duke Energy Water Resources funds to complete this construction. The North Carolina Community Foundation awarded Catawba County a \$100,000 grant on March 30, 2016. The grant will be used for the following purposes: stone backfill: \$500; class A concrete: \$50,000; reinforcing steel: \$12,000; drilled shafts: \$25,000; Rip Rap Class II: \$2,500; and kiosks and supporting materials/supplies: \$10,000. The Board's Finance and Personnel Subcommittee recommends approval of this budget ordinance.

B. UTILITIES AND ENGINEERING

1. The Board will consider adopting a resolution authorizing the lease of property pursuant to North Carolina General Statute (NCGS) 160A-272; approving a ground lease with Apple, Inc. to lease approximately 3.713 acres+; approving a Memorandum of Ground Lease (for recording with the Register of Deeds); and approving a Landfill Gas Sales Agreement with Quadrogen, Inc.

Since November 2015, County staff has been actively negotiating with Apple, Inc. regarding the lease of a portion of County property located at the Blackburn Resource Recovery Facility on Rocky Ford Road for the purpose of locating and operating a renewable energy facility. The initial term of the lease is for sixteen years with the ability to extend an additional five years if Apple so desires. NCGS 160A-272 authorizes units of local government to enter into leases with terms of more than 10 years for the location and operation of a renewable energy facility.

The annual rent for the first five years is \$1,500 per acre (\$5,569.50). Beginning with year six of the Lease, and annually thereafter, the annual rent will be adjusted by the same percentage as the percentage change in the Consumer Price Index for All Urban Consumers - South Region - All Items as published by the United States Department of Labor – Bureau of Labor Statistics. However, the annual rent will never be less than \$1,500 per acre.

In September 2015, the County issued a Request for Proposals (RFP) for the Sale of Landfill Gas. In response to the RFP, Quadrogen, Inc. submitted a proposal to purchase raw, untreated landfill gas. County staff has subsequently negotiated a Landfill Gas Sales Agreement with Quadrogen. The agreement has an initial term of sixteen years with the ability to extend an additional five years (mirroring the term of the Apple Land Lease).

Total landfill gas flow is currently approximately 1,200 standard cubic feet per minute (SCFM). The Landfill Gas Sales Agreement is limited to a maximum continuous flow quantity of landfill gas of 475 SCFM. The instantaneous flow rate

may not exceed 500 SCFM. The proposed Landfill Gas Sales Agreement will sell a maximum of approximately 40% of the total landfill gas flow. The remaining 60% of the landfill gas will continue to be used by the County to generate electricity.

The initial sales price of \$2.00 per mmBtu provides the County with an amount of revenue equal to what would be realized through electricity sales using that same landfill gas. The initial sales price is for year one through year five of the agreement. Beginning in year six, the landfill gas sales price will be increased by the same percentage that the County's sale of electricity increases. At no time during the term of the agreement will the sales price be less than \$2.00 per mmBtu.

The Board's Policy and Public Works Subcommittee recommends the Board adopt a Resolution authorizing the Lease of Property pursuant to North Carolina General Statute (NCGS) 160A-272; approving a Ground Lease with Apple, Inc. to lease approximately 3.713 acres+-; approving a Memorandum of Ground Lease (for recording with the Register of Deeds); and approving a Landfill Gas Sales Agreement with Quadrogen, Inc.

OTHER ITEMS OF BUSINESS

The Board will adopt a Fiscal Year 2016-2017 County Budget, which keeps the County's property tax rate unchanged while it invests to enhance the quality of life in the County and harness positive momentum of the local economy.

CONTACT: DAVE HARDIN, PUBLIC INFORMATION OFFICER

828-465-8464



CATAWBA COUNTY OFFICE OF SHERIFF

COY REID, SHERIFF

P.O. Box 385 • 100-B South West Boulevard • Newton, North Carolina 28658-0385
www.catawbacountync.gov/depts/shf/

Office: 828-464-5241
Jail: 828-465-8999
Fax: 828-465-8471

April 20, 2016

Chair C. Randall Isenhower
Catawba County Board of Commissioners
Catawba County Government Center
Newton, NC 28658

Dear Chair Isenhower:

Upon my retirement effective June 1, 2016, I am requesting my service weapon and badge. This is pursuant to North Carolina Statute 20-187.2 of which a copy is enclosed. I have also enclosed my pistol purchase permit for the weapon.

I have been employed as a Deputy Sheriff for seventeen years and nine months with Catawba County Sheriff's Office. I have enjoyed my tenure and have made many dear friends and acquaintances. I have enjoyed my years of service with the Sheriff's Office and would like to have these items to commemorate my service with the department.

I thank you for your consideration of my request.

Sincerely,

A handwritten signature in black ink that reads "Joel E. Fish, Jr." with a stylized flourish at the end.

Joel E. Fish, Jr.
Catawba County Sheriff's Office

cc: Coy Reid, Sheriff
J. Thomas Lundy, County Manager

Enclosures:
Copy of Statute §20-187.2
Original Pistol Purchase Permit

§20-187.2. Badges and service side arms of deceased or retiring members of State, city and county law-enforcement agencies; weapons of active members.

(a) Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law-enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, upon securing a permit as required by G.S. 14-402 **et seq.** or 14-409.1 **et seq.**, or without such permit provided the weapon shall have been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law-enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law-enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law-enforcement officers, the head of the department.

(b) Active members of North Carolina State law-enforcement agencies, upon change of type of weapons, may purchase the weapon worn or carried by such member at a price which shall be the average yield to the State from the sale of similar weapons during the preceding year. (1971, c. 669; 1973, c. 1424; 1975, c. 44; 1977, c. 548; 1979, c. 882; 1987, c. 122.)

PERMIT TO PURCHASE/RECEIVE A HANDGUN

State of North Carolina

CATAWBA County

Permit Number 45IQ7CZMQ-1

I, SHERIFF COY REID, Sheriff of said County, do hereby certify that I have conducted a criminal background check of the applicant, JOEL EMANUEL FISH JR, whose place of residence is 1722 ROLLING LN in HICKORY (or) in _____ Township, CATAWBA County, North Carolina, and have received no information to indicate that it would be a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The applicant has further satisfied me as to his, her (or) their good moral character. Therefore, a permit is issued to JOEL EMANUEL FISH JR to purchase one pistol from any person, firm or corporation authorized to dispose of the same.

This permit expires five years from its date of issuance listed below.

Issued this the 21ST day of APRIL, 20 16.

Expires the 21ST day of APRIL, 20 21.



Coy Reid

Sheriff of CATAWBA County

APPOINTMENTS

RANDY ISENHOWER CVCC Board of Trustees

06/30/16 Kitty Barnes Eligible for a 2nd term
4-year terms

Chair Isenhower recommends the appointment of Commissioner Sherry Butler for a first term on the CVCC Board of Trustees. This appointment will expire June 30, 2020.

RANDY ISENHOWER (Due) Juvenile Crime Prevention Council

06/30/16 Tara Conrad Eligible for a 5th term
2-year terms

Chair Isenhower recommends the reappointment of Tara Conrad for a fifth term as the mental health representative and the appointment of Lt. Scott Hildebrand for a first term as the Hickory Police Department Police Chief designee and Billy Rogers for a first term as the student appointment on the Juvenile Crime Prevention Council. These terms will expire June 30, 2018.

RANDY ISENHOWER (Due) Economic Development Corporation

06/30/16 Robin Nicholson Eligible for a 2nd term
3-years terms

Chair Isenhower recommends the reappointment of Robin Nicholson for a second term on the Economic Development Corporation Board of Directors. This term will expire June 30, 2019.

RANDY ISENHOWER (Due) NACo ANNUAL CONFERENCE VOTING DELEGATE AND ALTERNATE

Chair Isenhower recommends the appointment of Kitty Barnes as the Voting Delegate and Dan Hunsucker as the Alternate for the upcoming NACo Annual Conference.

BARBARA BEATTY Library Board of Trustees

Vice-Chair Beatty recommends the appointment of Nicky Setzer for a first term on the Library Board of Trustees. This term will expire June 30, 2020.

BARBARA BEATTY Nursing and Rest Home Advisory Board

Vice-Chair Beatty recommends the appointment of Helen Upchurch for a first term on the Nursing and Rest Home Advisory Board. This initial term will expire June 5, 2017.

BARBARA BEATTY (Due) Subdivision Review Board

06/30/16 Jason Cloninger Eligible for a 4th term
2-year term

Vice-Chair Beatty recommends the reappointment of Jason Cloninger for a fourth term on the Subdivision Review Board. This term will expire June 30, 2018.

DAN HUNSUCKER (Upcoming) Public Health Board

06/30/16

**John Dollar
Naomi East
David Hamilton
Bill Mixon
Brian Potocki**

**Eligible for a 3rd term
Does not wish Reappt
Eligible for a 2nd term
Does not wish Reappt
Eligible for a 2nd term**

3-year term

Commissioner Hunsucker recommends the reappointment of John Dollar for a third term and David Hamilton and Brian Potocki for second terms on the Public Health Board. These terms will expire June 30, 2019.

TOM LUNDY Tax Collector

06/30/16

**Lori Mathis, Tax Collector
Jeanne Jarrett, Deputy Tax Collector**

**Eligible for a 2nd term
Eligible for an 8th term**

2-year terms

County Manager Lundy recommends the reappointment of Lori Mathis for a second term as Tax Collector and the reappointment of Jeanne Jarrett for an eighth term as the Deputy Tax Collector. These terms will expire June 30, 2018.

Catawba County Juvenile Crime Prevention Council
119 Morgan Trace Drive, SW
Valdese, NC 28690
828-446-4974
jcpcbcc@charter.net

Memorandum

TO Catawba County Board of Commissioners

FROM Finance and Personnel Subcommittee

RE Juvenile Crime Prevention Council Annual Plan for FY 2017

DATE June 6, 2016

Requests: To approve the FY 2017 Annual Plan for the Catawba County Juvenile Crime Prevention Council. It includes the recommended funding plan. New to the Plan this year are Performance Enhancement Plans, and two new agencies recommended to provide services. The requests are recommended by the Catawba Juvenile Crime Prevention Council (JCPC).

Background: The Juvenile Crime Prevention Council (JCPC) is an organization established by the State of North Carolina, Department of Public Safety – Division of Adult Correction/Juvenile Justice. Membership is determined mostly by the Statute establishing the JCPC; the Statute lists some areas of representatives that are involved with youth. Representatives are appointed by the Board of Commissioners. The JCPC exists to identify risks of youth in the community, prevent crime among at risk youth, review court data and identify needed programs to provide intervention and prevention. Funding is allocated by the State, distributed to the County, and then to programs.

Every year there is a process the JCPC must follow that begins with a review of the court data for the prior three years, including program and schools' data; then risks and needs are prioritized based on that information. Once risks and needs are prioritized, the JCPC develops a list of funding priorities are developed and used for a request for funding proposals. Review of proposals includes review of programs for evidence-based practices, and culminates with the final step being approval of a funding plan. The risks and needs priorities takes place in the fall/early winter, and the approval of the funding plan occurring in the spring. Basically, all the steps are:

- identifying risk factors, based on court data
- developing a list of priorities to address the risk factors
- reviewing and approving the priorities

Once priorities are developed, JCPC takes the following steps:

- identifying potential providers who may offer the needed services, and contacting them;
- advertising for programs to submit proposals to address risk factors
- reviewing proposals
- recommending a funding plan to the JCPC, which is subject to the State of North Carolina budget.

In the spring, and once proposals are received, JCPC has the following requirements:

- developing an annual plan; commonly called the "County Plan".
- submitting the items to the Board of Commissioners

The County Plan for FY 2017, including the Funding Plan, is presented for consideration.

Attached is the recommended Annual Plan for FY 2017. This is based on the risks and needs data, and priorities approved by the Board of Commissioners during their December 7, 2015 meeting.

The State-required FY 17 plan has two significant changes. Program Descriptions Summary now only includes information about new programs that do not have a Performance Enhancement Plan. The second is Performance Enhancement Plans (PEPs), which are now required of existing programs. JCPC includes PEPs for new programs that are funded by JCPCs in other counties, using the PEP from that county.

The recommended Catawba Plan has some significant changes. Family Net advised they will not seek JCPC funding next fiscal year. There are three new providers recommended for funding next year:

- Cognitive Connection. Their non-profit side of the agency will provide assessments, substance abuse assessment and treatment, and counseling services. Some years ago (I cannot find a record of when so more than eight years ago) they contracted with the JCPC to provide some of the services. Our Area Consultant has reviewed them, and advises the arrangement meets policy. A program description is attached.
- Family Centered Treatment. The agency will provide home based family therapy. This is an evidence based practice, and generally recognized as very successful. The agency currently provides this service to the Cleveland, Gaston and Lincoln County JCPCs. Since they are not in our district and are new, a program description is attached.
- Repay – SAIS. The agency will provide sex offender assessment and treatment. Repay is currently funded in Burke and Caldwell Counties. Their Caldwell PEP is included.

A summary of the County Plan, by each component, is given below.

- I. The Executive Summary summarizes JCPC funding priorities and may contain any particular issues.

- II. Funding Plan: The form lists the recommended allocation to each program, and the source of their required 30% match.
- III. JCPC Organization: JCPC is required to maintain a list of JCPC officers, list the dates the JCPC met, and if a quorum was present.
- IV. County Risk and Needs Assessment Summary: This summarizes court data over three years, and compares it to State averages. Data is given in two areas. Risks data is used to predict the likelihood of the juvenile being involved in future delinquent behavior. Needs data is used to examine a youth's needs in various domains of life; including individual, school, peer and community. JCPC uses this data to detect service intervention needs.
- V. Requests for Proposals: This is the statement verifying that JCPC advertised based on risks and needs, including the dates. JCPC is required to run a legal advertisement. Two were run this year, so two forms are attached.
- VI. Funding Decisions Summary: JCPC Finance Committee uses the criteria on the form while reviewing proposals for the next year in order to list reasons for funding, or not.
- VII. Performance Enhancement Plans (PEPs): Programs are evaluated against best practice/evidence based practices. Based on the evaluation, areas where improvements may be made are identified, and a performance plan written. Attached are PEPs for programs funded in prior years, which are proposed for funding in FY 17. Programs not funded by any county JCPC will not have a PEP, so a program description is attached. If funded by another JCPC we can attach a PEP from another county for information.

The Executive Summary and Funding Plan list programs recommended for funding next year. The Funding Plan specifies the source of each program required 30% program match.

The recommended funding for next year and service:

- Conflict Resolution Center: \$51,524 for mediation and Lifeskills classes
- Cognitive Connection: \$104,990 for counseling, substance abuse, and assessments
- Family Centered Treatment: \$33,264 for home based family counseling
- Family Guidance Center – Parent Education: \$34,396
- Project Challenge: \$65,489 for restitution/community service
- Repay – sex offender assessment and treatment: \$29,205.
- JCPC Administration: \$13,498

The State has advised local JCPCs to plan for the same funding as received in FY 2016, which is \$332,366.

The plan does not require any Catawba County funding, and as stated previously, is subject to State budget.

Recommendations: The Finance and Personnel Subcommittee recommends the Juvenile Crime Prevention Council FY 2017 Annual Plan be approved.

Juvenile Crime Prevention Council County Plan

Catawba County

For FY 2016-2017

Table of Contents

- I. Executive Summary
- II. County Funding Plan
- III. Juvenile Crime Prevention Council Organization
- IV. County Risk and Needs Assessment Summary
- V. County Juvenile Crime Prevention Council Request for Proposals
- VI. Funding Decisions Summary
- VII. Funded Programs Program Enhancement Plan (PEP). (Add brief program description for any program without a PEP)

Attachments:

Executive Summary

The Catawba County Juvenile Crime Prevention Council (JCPC), in fulfillment of the duties and responsibilities as set forth in the General Statutes of the State of North Carolina, has reviewed and updated the County Plan for FY 14/15 through FY 16/17.

The JCPC has identified the issues and factors which have an influence and impact upon delinquent youth, at-risk youth, and their families in Catawba County. Further, the JCPC has identified the strategies and services most likely to reduce/prevent delinquent behavior.

Priorities for Funding: Through a risk & needs assessment and a resource assessment, the JCPC has determined that the following services are needed to reduce/prevent delinquency in Catawba County.

PRIORITIES FOR FY 2016-2017:

1. Psychological services/comprehensive assessments
2. Counseling
3. Restitution/community service
4. Substance abuse
5. Mentoring
6. Family skill building
7. Group home/Residential services
8. Interpersonal skill building
9. Mediation
10. Sexual offender
11. Temporary shelter
12. Specialized foster care
13. Tutoring
14. Structured day
15. Experiential
16. Teen court
17. Vocational

Monitoring and Evaluation: Each program funded in the past year by the JCPC has been monitored. The monitoring results and program outcomes evaluations were considered in making funding allocation decisions.

Review years 2016-2017

Funding Recommendations: Having published a Request for Proposals for these needed services for a minimum of thirty (30) days, the JCPC has screened the submitted proposals and has determined which proposals best meet the advertised needed services. As required by statute, the JCPC recommends allocation of the NC Department of Public Safety (NC DPS) Funds to the following Programs in the amounts specified below for FY 16/17.

The FY 2017 funding recommendation is:

Conflict Resolution Center \$51,524.

Cognitive Connections –psychological assessments, group counseling, substance abuse \$104,990.

Family Centered Treatment Foundation – home based family counseling \$33,264

Parent Education (Family Guidance Center) – parent education/family skill building \$34,396

Project Challenge – restitution/community service \$65,489

Repay – Sex Offender Treatment and assessment \$29,205

The JCPC further recommends that the following amount be allocated from the NC DPS funds for the administrative costs of the Council for FY 16/17:

\$13,498.

Respectfully Submitted,

Jennie Connor, Chair, Catawba County Juvenile Crime Prevention Council

Date: _____

Catawba County

NC DPS - Community Programs - County Funding Plan

Available Funds: \$ 332,366 Local Match: \$ 99,620 Rate: 30%

DPS JCPC funds must be committed with a Program Agreement submitted in NC Allies and electronically signed by authorized officials.

#	Program Provider	DPS-JCPC Funding	LOCAL FUNDING			OTHER	OTHER	Total	% Non DPS-JCPC Program Revenues
			County Cash Match	Local Cash Match	Local In-Kind	State/Federal	Funds		
1	JCPC Administration	\$13,498						\$13,498	
2	Conflict Resolution Center	\$51,524			\$15,457			\$66,981	23%
3	Cognitive Connection	\$104,990		\$31,497	\$450	\$46,568		\$183,505	43%
4	Family Centered Treatment - Home Based Counseling	\$33,264		\$9,699	\$312			\$43,275	23%
5	Family Guidance Center -Parent Education	\$34,396			\$10,319			\$44,715	23%
6	Project Challenge	\$65,489			\$19,646			\$85,135	23%
7	Repay - SAIS	\$29,205			\$12,240		\$17,216	\$58,661	50%
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
TOTALS:		\$332,366		\$41,196	\$58,424	\$46,568	\$17,216	\$495,770	33%

The above plan was derived through a planning process by the Catawba County
 Juvenile Crime Prevention Council and represents the County's Plan for use of these funds in FY 2016-2017

Amount of Unallocated Funds _____
 Amount of funds reverted back to DPS _____
 Discretionary Funds added _____

 Chairperson, Juvenile Crime Prevention Council (Date)

check type initial plan update final

 Chairperson, Board of County Commissioners (Date)
 or County Finance Officer

----DPS Use Only----

Reviewed by _____	_____
Area Consultant	Date
Reviewed by _____	_____
Program Assistant	Date
Verified by _____	_____
Designated State Office Staff	Date

Juvenile Crime Prevention Council Organization

	Name	Organization	Title
Chairperson	Brandi Tolbert	State of North Carolina 25 th Judicial District	District Court Trial Court Coordinator
Vice-Chairperson	Tara Conrad	Partners Behavioral Health	System of Care Director
Secretary	Brandi Tolbert	State of North Carolina 25 th Judicial District	District Court Trial Court Coordinator
Treasurer	Jennifer Mace	Catawba County	Budget Officer
Assessment Committee Chairperson	Ronn Abernathy	NC Dept. of Public Safety	Chief Court Counselor
Funding Committee Chairperson	Jennifer Mace	Catawba County	Budget Officer

Number of members: 9 as of May 2016

List meeting dates during the current fiscal year and identify the number of JCPC members in attendance for each.

Meeting Date	Number of Members in Attendance	Quorum Present? Yes/No
August 18, 2015	8	Yes
Sept 15, 2015	6	Yes
Oct 20, 2015	8	Yes
Dec. 15, 2015	15	Yes
Jan. 19, 2016	5	No
March 1, 2016	7	Yes
March 15, 2016	5	Yes
April 19, 2016	6	Yes

SUMMARY REPORT OF THE CATAWBA COUNTY RISK AND NEEDS ASSESSMENT COMMITTEE

- I. Risk Assessment Summary
- II. Needs Assessment Summary
- III. Resource Assessment Summary
- IV. Summary of Gaps and Barriers in the Community Continuum
- V. Proposed Priority Services for Funding

Part I Risk

The Risk and Needs Assessment Committee reviewed data gleaned from the Juvenile Risk Assessment instrument administered by Juvenile Court Counselors after juveniles are referred with a complaint alleging that a delinquent act has occurred and prior to adjudication of the juvenile. The Juvenile Risk Assessment is an instrument used to predict the likelihood of the juvenile being involved in future delinquent behavior. For some youth, some of the individual item ratings may be heavily dependent upon information reported by the juvenile or the parent(s). For these items (*represented by percentages which with a star next to them*), there is a likelihood of under-reporting the incidence of a particular behavior and the actual incidence may be higher than suggested by these figures. In those cases, the figure should be interpreted as a measure of the minimum level of occurrence.

County Risk Factor Observations: FY 2014-2015

R2 Number of undisciplined or Delinquent Referrals at Intake – elevated observations: 13% of assessed youth have 2 or 3 prior referrals (2 year increase trend & higher than state rate). 20% of assessed youth have one prior referral (2 year increase trend & higher than state rate). 37% have one or more prior referrals (increase from previous year's rate).

R6 Known Use – Alcohol, Illegal Drugs** (prior 12 months) – elevated observations: **24% of assessed youth have known substance use (2 year increase trend). 12% have known use and need assessment (increase from previous year's rate).

R7 School Behavior Problems (prior twelve months) – elevated observations: 87% of assessed youth have school behavior problems (2 year increase trend & higher than state rate the past 2 years). 44% of assessed youth have serious school behavior problems (increase from the previous year's rate).

R8 Relationships with Peers – elevated observations: 18% of assessed youth regularly associate with others involved in delinquent activity. 44% of assessed youth lack prosocial peers or sometimes associate w/delinquent others (2 years decrease trend but higher than state rate the past 3 years).

R9 Parental Supervision – elevated observations: 90% of assessed youth have parents willing and able to supervise (3 year increase trend & lower than the state rate the past four years). 19% have parents willing but unable to supervise (decrease from previous year's rate and higher than the state rate).

**reflects self-reported data

Part II. Needs

The Risk and Needs Assessment Committee also reviewed data gleaned from the Juvenile Needs Assessment instrument administered by Juvenile Court Counselors prior to court disposition of a juvenile. The Juvenile Needs Assessment is an instrument used to examine a youth's needs in the various domains of his life: The Individual Domain, The School Domain, The Peer Domain, and the Community Domain. This instrument was designed to detect service intervention needs as an aid in service planning. As with the Juvenile Risk Assessment, some of the individual item ratings may be heavily dependent upon information reported by the juvenile or the parent(s). For these items (*represented by percentages which with a star next to them*), there is a likelihood of under-reporting the incidence of a particular behavior and the actual incidence may be higher than suggested by these figures. In those cases, the figure should be interpreted as a measure of the minimum level of occurrence.

County Elevated Needs Observations: FY 2014-2015

Y1 Peer Relationships - elevated observations: 35% of assessed youth have positive peers (increase from the prior year but lower than the state rate). 27% of assessed youth are rejected by positive peers (3 year increase trend and higher than the state rate for the past 4 years); sometimes associate with delinquent peers (2 year decrease trend and lower than state rate). 8% report regular association with delinquent peers (decrease from prior year and & lower than the state rate for past 3 years).

Y2 School Behavior/Adjustment – Elevated observation: 75% of assessed youth have school behavior problems. 61% of assessed youth have moderate to serious school behavior problems (increase from previous year's rate).

Y4 Substance Abuse within the past 12 months – elevated observation: **25% of assessed youth have substance use and/or abuse issues (3 year increase trend). 17% need further assessment (2 year increase trend).

Y7 Sexual Behaviors during Past 12 months – elevated observation: 82% of assessed youth have no apparent sexual behavioral problems (increase from the previous year's rate but lower than the state rate for the past 4 years). 8% of assessed youth have dangerous sexual practices (decrease from previous year's rate but higher than the state rate the past 4 years).

Y8 Mental Health Needs – elevated observations: 21% of assessed youth need more mental health assessment (higher than state rate the past 4 years). 39% have mental health needs addressed (lower than state rate the previous year but higher than the state rate the past four years).

Y9 Basic Physical Needs/Independent Living – elevated observations: 94% of assessed youth are living with parent and needs met (increase from previous year's rate & higher than state rate). (NOTE: The need is considered elevated because of elevated observations in F1, F2, F4, & F5.)

F1 Conflict in the Home within Past 12 months – elevated observation: 17% have conflict in the home (decrease from previous year’s rate & lower than the state rate the past 4 years).

F2 Family Supervision Skills – elevated observation: 56% of assessed youth have parents with marginal to inadequate family supervision skills (decrease from previous year’s rate but higher than the state rate the past 3 years).

F4 Family Substance Abuse Within the Past 3 Years by Household Member - elevated observations: **13% of assessed youth have family members with alcohol/drug abuse issues (decrease from previous year’s rate but higher than state rate past 4 years).

F5 Family Criminality – elevated observation: 63% of assessed youth have family members with no criminal history (increase from previous year’s rate & higher than state rate the first time in 4 years).

**self-reported data

Part III. Summary of the Existing Community Resources

Structured Activities

- Experiential (4-H Activities-financial barrier)
- Private Recreational Programs- restrictions & financial barrier
- Parks & Recreational Programs
- Mentoring (Council on Adolescents Lunch Buddy program is restricted; Young People of Integrity- program is restricted)
- Teen Up / Links: restricted
- Tutoring/Academic Enhancement-Hickory High School and Middle School-access limited
- Parent Family Skill Building (Parenting Network)
- Boys and Girls Scouts- financial barriers
- Boys and Girls Clubs Salvation Army age restriction to age 15; financial barrier
- Temple of Refuge After School Program – access limited
- Communities in Schools – restricted, school-based
- Conflict Resolution Center Lifeskills – would not be available if not JCPC funded
- Vocational services- via the school systems-access is limited
- Apprenticeship programs-via the school systems – access is limited

Restorative Services

- Restitution/Community Services (Project Challenge) services available if JCPC funded
- Mediation Conflict Resolution if JCPC funded

Community Day Programming

- Alternative Schools restricted

Assessment Services

- Psychological Assessment - Catawba Department of Social Services/Family Net – state policy requirement of assessments within 21 days would not be available if not JCPC funded
- Private Sector – funding restriction; time restraint

Clinical Treatment

- Mental Health Services Critical Access Behavioral Health Agencies and the Private/Public Sector Agencies – financial barriers
- Home Base Family Counseling : In-Home Therapeutic Services- Intensive & Multisystemic Therapy
- Alexander Youth Network – financial barrier
- Substance Abuse Assessment & Treatment-, Cognitive Connections-age restricted; Family Net- would not be available if not JCPC funded
- Sex Offender Specific Treatment –Family Net would not be available if not JCPC funded
- Counseling: School based mental health- Family Net- restricted
- Child Advocacy Center – non offending parent, restricted to victims
- Mobile crisis – Partners Behavioral Healthcare
- AMI Kids – restricted to Level II youth & adjudicated youth

Residential

- Temporary/ Emergency Shelter – Rapid Response Beds- restricted and limited
- Alexander Youth Network –financial restrictions
- Therapeutic Foster Care /Specialized Foster Care – Catawba Social Services & Private Sector - restricted
- Temporary Foster Care – Catawba Department of Social Services - restricted
- West Care – female short term residential facility-restricted
- Sipes Orchard home – restricted and limited

Part IV. Summary of Gaps and Barriers in the Continuum of Services

Structured Activities

- Parent Family Skill Building -service would not exist without JCPC funding
- Tutoring/Academic Programs – hard to access, limited participation
- Youth Interpersonal Skill Building if JCPC funded program is not provided.
- Mediation program-Conflict Resolution Center – service would not exist without JCPC funds.

Restorative Services

- Restitution/Community Services if JCPC funded program is not provided.
- Mediation/Conflict Resolution Services if JCPC funded program is not provided.
- Teen Court – not available

Community Day Programming

- Structured day programs not available
- Alternative School –limited and restricted

Assessment Services

- Psychological Assessment Services are a priority. Assessments within the state policy-required 21 days for court involved youth would not be available if the JCPC funded program is not provided.

Clinical Treatment

- Substance Abuse for JCPC youth is needed; would be difficult to access plus there would be financial barriers if JCPC did not fund.
- Counseling for youth and families is needed. There are financial barriers plus programs are difficult to access.
- Home based and multi-systemic treatment is needed; financial restrictions.
- Sex Offender Assessment/Treatment Services – difficult to access plus financial barriers exist if JCPC did not fund

Residential

- Group Home services are limited
- Therapeutic Foster Care has limited access
- Emergency Shelter – limited access

Part V. Proposed Priority Services for Funding

The committee compared the services needed to address the elevated Juvenile Risk Factors and Juvenile Needs with services currently available in the community. Services which are currently available in the community and sufficient to meet the needs of court involved youth or those youth most at risk for court involvement are not considered as a priority for JCPC funding.

The Committee proposes that the following services in ranked order be approved as the funding priorities for FY 2016-2017:

1. Psychological services/comprehensive assessments
2. Counseling
3. Restitution/community service
4. Substance abuse
5. Mentoring
6. Family skill building
7. Group home/Residential services
8. Interpersonal skill building
9. Mediation
10. Sexual offender
11. Temporary shelter
12. Specialized foster care
13. Tutoring
14. Structured day
15. Experiential

16. Teen court

17. Vocational

Catawba County Juvenile Crime Prevention Council Request for Proposals

\$332,336

Anticipated County Allocation

30%

Required Local Match Rate

Jan 3 & 10, 2016

Date Advertised

The Juvenile Crime Prevention Council (JCPC) has studied the risk factors and needs of Juvenile Court involved youth in this county and hereby publishes this Request for Proposals. The JCPC anticipates funds from the Department of Public Safety in the amount stated above to fund the program types specified below. Such programs will serve delinquent and at-risk youth for the state fiscal year 2016-2017 beginning on, or after, July 1, 2016. The use of DPS funds in this county **requires a local match** in the amount specified above.

The JCPC will consider proposals for the following needed Programs:

Psychological services/comprehensive assessments; counseling;	family skill building; group home/residential services; interpersonal skill building;	
restitution/community service; substance abuse; mentoring;	mediation; sexual offender; temporary shelter; specialized foster care;	tutoring; structured day; experiential; teen court; vocational

Proposed Program Services should target the following Risk Factors for Delinquency or Repeat Delinquency:

number of undisciplined or delinquent referrals at intake; known use-alcohol/drug substance abuse; school behavior; relationships with peers & family; parental supervision

Programs should address the following concerns as reported in the Needs Assessments for Adjudicated Youth:

Peer Domain:	Peer relationships; school behavior; substance abuse; sexual behavior; mental health; basic needs/independent living
Individual Domain:	peer relationships; school behavior/adjustment; substance abuse; sexual behavior; mental health; basic needs/independent living
Family Domain:	school behavior; substance abuse; sexual behavior; mental health; conflict in the home; family supervision skills; family substance abuse; family criminality
School Domain:	peer relationships; school behavior/adjustment; substance abuse; mental health; sexual behavior; basic physical needs/independent living

Applicants are being sought that are able to address the legislatively mandated items below:

1. Program services compatible with research that is shown to be effective with juvenile offenders.
2. Program services are outcome-based.
3. The program has an evaluation component.
4. Program services detect gang participation and divert individuals from gang participation.
5. Programs that can have a demonstrable impact on the following success factors: a. reduce the use of alcohol or controlled substances; b. reduce subsequent complaints; c. reduce violation of terms of community supervision; d. reduce convictions from subsequent offenses; e. fulfill restitution to victims; and f. increase parental accountability.

Local public agencies, 501(c)(3) non-profit corporations and local housing authorities are invited to submit applications (Program Agreements) for programs addressing the above elements. Application forms and other necessary information may be obtained from:

Debbie Bradley, JCPC Staff

at

828-446-4974

JCPC Chairperson or Designee

Telephone #

*****Program Agreement forms may also be downloaded from the DPS web-site*****

<http://www.ncdjjdp.org/jcpc/forms.html>

NOTE: For further information, technical assistance, or inquiring about grant writing workshops in your area, contact the Dept. of Public Safety Area Office by calling Massey Whiteside, DPS Area Consultant at 828-296-4744

Deadline for Application is: Friday, February 26, 2016 by 5:00 P.M.

Mail or deliver Jennifer Mace, Catawba Co. Budget Manager

applications to: 100-A Southwest Blvd.

Newton, NC 28658

Number of copies to submit: 1

Telephone: 828-465-8207

**Catawba County Juvenile Crime Prevention Council
Request for Proposals 2nd**

\$332,336

Anticipated County Allocation

30%

Required Local Match Rate

Mar 6 & 13, 2016

Date Advertised

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Deadline for Application is: Monday, April 11, 2016 by 5:00 P.M.

Mail or deliver Jennifer Mace, Catawba Co. Budget Manager

applications to: 100-A Southwest Blvd.

Newton, NC 28658

Number of copies to submit: 1

Telephone: 828-465-8207

Juvenile Crime Prevention Council Funding Decisions Summary

Program Funded	Reason for Funding (Check all that apply)
Cognitive Connection Assessments	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input checked="" type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Cognitive Connection Group Counseling	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Cognitive Connection Substance Abuse	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input checked="" type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Conflict Resolution Lifeskills	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input checked="" type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input checked="" type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Conflict Resolution Mediation	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Family Centered Treatment	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Parent Education	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input type="checkbox"/> Addresses use of alcohol/controlled substances <input checked="" type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input checked="" type="checkbox"/> Would increase funding to this service if funds were available
Project Challenge	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input type="checkbox"/> Addresses parental accountability <input type="checkbox"/> Addresses use of alcohol/controlled substances <input checked="" type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
Repay - SAIS	<input checked="" type="checkbox"/> Meets funding priority <input checked="" type="checkbox"/> Compatible with research <input checked="" type="checkbox"/> Cost efficient <input checked="" type="checkbox"/> Addresses reductions of complaints, violations of supervision & convictions <input checked="" type="checkbox"/> Has evaluation component <input checked="" type="checkbox"/> Addresses parental accountability <input type="checkbox"/> Addresses use of alcohol/controlled substances <input type="checkbox"/> Addresses restitution to victims <input type="checkbox"/> Addresses gang participation <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Would increase funding to this service if funds were available
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Juvenile Crime Prevention Council Funding Decisions Summary

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Program Not Funded	Reason for Not Funding (Check all that apply)
	<input type="checkbox"/> Lack of funding, addresses priority need and would fund if resources allowed <input type="checkbox"/> Does not meet funding priority <input type="checkbox"/> Not compatible with research <input type="checkbox"/> Lesser quality than another program funded of it's type <input type="checkbox"/> Greater cost than program of same type and quality <input type="checkbox"/> Other <input type="checkbox"/> Other
	<input type="checkbox"/> Lack of funding, addresses priority need and would fund if resources allowed <input type="checkbox"/> Does not meet funding priority <input type="checkbox"/> Not compatible with research <input type="checkbox"/> Lesser quality than another program funded of it's type <input type="checkbox"/> Greater cost than program of same type and quality <input type="checkbox"/> Other <input type="checkbox"/> Other
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Program Enhancement Plan

Program:

Juvenile Mediation/Conflict Resolution Education – CATAWBA JCPC

Brief Description:

Program allows youth to discuss issues that are leading to their delinquency. GOALS: Increase of effective communication, collaborative problem solving and implementing an agreement between two parties. The class series build Interpersonal Skills by identifying problematic attitudes, beliefs & thinking patterns leading to delinquency. Contextual instruction and related experience focusing on pro-social decisions making, anger management techniques and conflict resolution interpersonal skills

Category	SPEP Score	Enhancement Opportunity	Action Steps	Responsible Party	Comments:
Primary Service Supplemental Services	15 0		None None		Supplemental Service for Mediation is Restitution Catawba JCPC funds Project Challenge
Quality of Service Delivery	14	<u>Defined Protocol for Program Service Delivery</u> <u>Staff Training</u> <u>Staff Retention</u> Program Evaluation, Monitoring & Corrective Action Staff Evaluation	<u>Consultant evaluate updated policy</u> <u>Consultant evaluate implementation</u> None <u>Consultant evaluate update & implementation</u> <u>Consultant evaluate update & implementation</u>		<u>Policy updated 10/9/14</u> <u>Policy implemented 9/25/14</u> Policy last updated 10/27/15 Implemented March 2014 Policy last updated 11/5/14 Implemented 11/18/14
Amount of Service: Duration and Contact Hours	6 10	<u>Increase Duration</u> <u>Increase Contact Hours</u>	<u>Make additional contact w/ youth who less than 4 weeks of service due to absences & make-up session or referral date</u> <u>Make additional contact w/ youth who have less than 8 hours due to class absences & make-up classes</u>	Patti Ferree, Program Manager Patti Ferree, Program Manager	Target Weeks: 75% of youth med (18 of 24) Target Hours: 92% of youth met (22 of 24) Elementary youth received 4 one-hour sessions for CR Education material & conciliation appointment Referral Sources: JCC=20, SRO=3 & Dist. Court=1 20 JCC referrals: 18=Diversion Plans & 2=Probation
Risk Level of Youth	0		None		
Total	45				

This Plan is approved by: Patti A. Ferree 3/1/16
 Program Manager Name & Signature Date

James B. Cannon 3/1/16
 JCPC Chair Name & Signature Date

Program Enhancement Plan

Program:

Interpersonal Skill Buildinging – CATAWBA JCPC

Brief Description:

Program allows youth to discuss issues that are leading to their delinquency. Goals: Increase of effective communication, collaborative problem solving and implementing an agreement between two parties. Classes build Interpersonal Skills by identifying problematic attitudes, beliefs & thinking patterns leading to delinquency. Contextual instruction and related experience focusing on pro-social decision making, anger management techniques and conflict resolution interpersonal skills.

Category	SPEP Score	Enhancement Opportunity	Action Steps	Responsible Party	Comments:
Primary Service Supplemental Services	15		None		
	5		None		
Quality of Service Delivery	14	<u>Defined Protocol for Program Service Delivery</u> <u>Staff Training</u> <u>Staff Retention</u> Program Evaluation, Monitoring & Corrective Action Staff Evaluation	<u>Consultant evaluate updated policy</u> <u>Consultant evaluate implementation</u> None <u>Consultant evaluate update & implementation</u> <u>Consultant evaluate update & implementation</u>		<u>Policy updated 10/9/14</u> <u>Policy implemented 9/25/14</u> <u>Policy last updated 10/27/15</u> <u>Implemented March 2014</u> <u>Policy last updated 11/5/14</u> <u>Implemented 11/18/14</u>
Amount of Service: Duration and Contact Hours	0 0	Increase Duration Increase Contact Hours	Obtain documentation from Botvin LifeSKILLS for adherence to model <u>Request exemption from Consultant</u> Obtain documentation from Botvin LifeSKILLS for adherence to model <u>Request exemption from Consultant</u>	Patti Ferree, Program Manager Patti Ferree, Program Manager	<u>SPEP Criteria = 16 Target Weeks & 24 Target Hours</u> <u>Program Model: 10 weeks/45 min. - Grades 9/10</u> <u>12 weeks/45 min. - Grades 7/8</u> <u>CRC provides: 5 weeks/2hours – Grades 9/10</u> <u>6 weeks/2 hours – Grades 7/8</u> When CRC offered Program Model w/10 wks & 12 wks there were no referrals from JCCs due to transportation issues w/ court involved youth <u>85% of youth w/ med or high risk scores</u> Referral Sources: JCC=13 & School=1 <u>JCC referrals: 12=Probation & 1=Protectv Supervision</u> <u>30% of youth w/ risk scores greater than medium</u>
Risk Level of Youth	20		None		
Total	54				

This Plan is approved by:

Patti L Ferree 3/1/16
 Program Manager Name & Signature Date

James S. Carter 3/1/16
 JCPC Chair Name & Signature Date

Program Enhancement Plan

Program:	Nurturing Adolescents (Parent Education Program) Catawba
Brief Description:	Our program provides opportunities for skill-building to parents/guardians and their teens pursuant to changing attitudes and behaviors. The programming uses Nurturing Adolescents, an evidence-based curriculum to address skills needed to build healthy, non-abusive family interactions and address challenges through effective communication.

Category	SPEP Score	Enhancement Opportunity	Action Steps	Responsible Party	Comments:
Primary Service Supplemental Services		None			
Quality of Service Delivery		Continue to work and develop written protocols outlining the services provided	Reorganize program materials so that lesson plans and activities are more efficiently organized. Add more detail to procedures and protocol manual.	Program Coordinator Program Coordinator	
Amount of Service: Duration and Contact Hours		Increase number of referrals Utilize other agency programs	Seek out additional referrals sources outside of court counselors to help supplement program numbers. Integrate other agency services into the program to increase the services available to assist families	Executive Director Executive Director	The program will continue to give priority to CC referrals
Risk Level of Youth					
Total					

Program Enhancement Plan

This Plan is approved by:

[Signature]
Program Manager Name & Signature

3/11/16
Date

[Signature]
JRPC Chair Name & Signature

3/21/16
Date

Program Enhancement Plan

Program:	Project Challenge NC Inc.-Catawba County
Brief Description:	Project Challenge is a dispositional option to juvenile court allowing participants to repay or give back to their community as part of their probation requirements. Participants are given the opportunity to fulfill their obligation to the courts by completing community service and provide victims repayment of monetary loss.

Category	SPEP Score	Enhancement Opportunity	Action Steps	Responsible Party	Comments:
Primary Service Supplemental Services	15	None	None-Program received the full score a Restitution service can obtain		
Quality of Service Delivery	19	Improve protocol manual to receive the full 20 points	Add detail in the program process section of the manual; evaluation process and corrective action sections of the manual	Project Challenge Program Manager	With well trained and consistent staff in the program, the protocol manual detail is the best place to focus to obtain the maximum points
Amount of Service: Duration and Contact Hours	6	Improve % of juvenile receiving optimal duration	1. Schedule participants for 12 weeks in all possible cases, adhering to frequency requirements in JCPC policy 2. Communicate change and rationale to referral sources, clients, and families 3. Modify protocol manual to reflect changes	1. Project Challenge Catawba coordinator 2. Project Challenge Catawba Coordinator 3. Program Manager	With implementing the action steps this will ensure an increase in duration to receive a maximum score
Risk Level of Youth	18	None	None-Risk score is not an area that a program receiving all court counselor referrals can improve upon		
Total	58				

Program Enhancement Plan

POP
73%

This Plan is approved by:

Ana B. Kular
Program Manager Name & Signature

2/9/16
Date

James B. Connor
JPC Chair Name & Signature

3/1/16
Date

Program Enhancement Plan

Use for Catawba
until discussed
after July 1, 2016

Program:

Sex Offender Treatment-Caldwell - *Repay*

Brief Description:

Sex offender specific treatment for youth displaying sexually aggressive behavior, inappropriate sexual conduct or who have been charged with a sex offense. The treatment balances accountability, rehabilitation and community safety.

Category	SPEP Score	Enhancement Opportunity	Action Steps	Responsible Party	Comments:
Primary Service Supplemental Services	30				No enhancements needed
Quality of Service Delivery	12	Define Protocol for Program Services and Delivery	Update SAIS Manual with curriculum, manuals and process for reviewing service plans.	Executive Director	The manual needs to be expanded to include these areas.
Amount of Service: Duration and Contact Hours	20				No enhancements needed
Risk Level of Youth	0				Most sex offenders have a low risk score because of the nature of the offense
Total	62				

This Plan is approved by:

Renee Lewis *[Signature]*
Program Manager Name & Signature

2/25/16
Date

[Signature]
JCPC Chair Name & Signature

3/17/16
Date

Program Enhancement Plan

Program:	Sex Offender Evaluation- Caldwell <i>Rydney</i>
Brief Description:	Sex offender specific evaluation and assessment for youth displaying sexually aggressive behavior or who have been charged with a sex offense in order to evaluate risk and make treatment recommendations.

Category	SPEP Score	Enhancement Opportunity	Action Steps	Responsible Party	Comments:
Primary Service Supplemental Services					Does not have a SPEP Score.
Quality of Service Delivery	14	Program Evaluation and Staff Evaluation	Establish protocol for evaluating program and staff evaluation	Executive Director	Set up a timeline for evaluation of program and staff so this is completed on a regular schedule.
Amount of Service: Duration and Contact Hours					
Risk Level of Youth					
Total	14				

This Plan is approved by:

Renee Lewis *Renee Lewis*
 Program Manager Name & Signature

3/7/16
 Date

[Signature]
 JCPC Chair Name & Signature

3/17/16
 Date

Catawba JCPC
Program Descriptions
FY 17

Information cut and pasted from NC ALLIES

Cognitive Connection: 3 components

Assessments: The Evidence Based evaluations/ assessments utilized by Cognitive Connection Corporation Licensed Behavioral Health Care Professionals are: Adolescent Substance Abuse Subtle Screening Inventory (SASSI-A2); Comprehensive Clinical Assessment; and Psychological Evaluation/Testing. These assessments help provide diagnosis; determine the extent and severity of the problem; formulate treatment recommendations and supports needed to aid recovery.

Mental Health: Through The Cognitive Connection, Psychotherapy is a form of psychiatric treatment that involves therapeutic conversations and interactions between the therapist, adolescent and family. It can help adolescents and families understand and resolve problems, modify behavior, and make positive life changes that contribute to mental health wellness.

Substance Abuse: The Cognitive Connection's goal is for clients and their families to understand that addiction is a disease, to show them the paths of recovery, and to enable them to live sober, happy and meaningful lives with the tools we teach them in our substance abuse treatment and prevention programs. We offer adolescent groups; children/adolescent prevention groups and activities; individual and family counseling and dual diagnosed services. Addiction is a family disease, our focus is family recovery.

Family Centered Treatment:

Home based family counseling. Family Centered Treatment (FCT) is a best practice, tested and evidence based model of home-based family therapy developed by practitioners over a 20 year period. FCT has been gradually formalized into a model of therapy that has practice based evidence and evidence based practice shown to lower rates of out of home placements, juvenile recidivism, and maladaptive areas of family functioning. It has been refined based on research, experience, and evidence of effectiveness derived from practice.

**Catawba County Juvenile Crime
Prevention Council
Membership: updated May 2016**

Ronn Abernathy
PO Box 728, Newton 28658
828-466-5671 (w) 244-1388 (c)
828-466-5674 (fax)
ronn.abernathy@djjdp.nc.gov
Chief Court Counselor
Expires June 2017

Capt. Jason Beebe
Catawba Co Sheriff's Office
P.O. Box
Newton, NC 28658
465-8337
jbeebe@catawbacountync.gov
Appointed May 2015
Expires June 30, 2017

Jennie Connor, United Way Director
PO box 2425, Hickory 28603
828-327-6851 (w)
217-2384 cell
828-324-4358
Expires June 2017
jconnor@ccunitedway.com
United Way/non-profit

Tara Conrad
tconrad@partnersbhm.org
System of Care Manager
Partners Behavioral Health Management
1985 Tate Blvd SE, Suite 529
Hickory, NC 28602
Phone: (828) 323-8093
Expires June 2016

Karen Harrington
Asst. Social Services Director
kharrington@catawbacountync.gov
828-695-5636
Designee for John Eller
January 2014 appt
Term expires June 2017

Dr. David Stegall, Supt
Newton-Conover Schools
David_stegall@nccs.k12.nc.us
term expires June 2017

Jennifer Mace
Catawba Budget Manager
PO Box 389, Newton 28658
828-465-8207 (w)
828-465-8392 (fax)
Jmace@catawbacountync.gov
County manager and Board of Comm.
Designee
Expires June 2017

Brandi Tolbert
1097 South Brady Ave., Newton 28658
828-465-8986 (w) 310-7879 cell (do
not publish/give out)
929-466-5623 (fax)
brandi.tolbert@nccourts.org
Designee, Chief Court Judge
Expires June 2017

Will add June 2017:
Lt. Brad Edwards, Hickory Police

Student from Discovery High
School for JCPC:

Billy Rogers
7787 Chapel Creek Drive
Denver, NC 28037

Phone: 704 775 0401

Email address:
williamsrogers98@gmail.com



**NC Department of Public Safety
Juvenile Crime Prevention Council Certification**

Fiscal Year: 2016 -2017

County: Catawba	Date: May 17, 2016
------------------------	---------------------------

CERTIFICATION STANDARDS

STANDARD #1 - Membership

- | | |
|---|-----|
| A. Have the members of the Juvenile Crime Prevention Council been appointed by county commissioners? | Yes |
| B. Is the membership list attached? | Yes |
| C. Are members appointed for two year terms and are those terms staggered? | Yes |
| D. Is membership reflective of social-economic and racial diversity of the community? | No |
| E. Does the membership of the Juvenile Crime Prevention Council reflect the required positions as provided by N.C.G.S. §143B-846? | Yes |
- If not, which positions are vacant and why?

STANDARD #2 - Organization

- | | |
|---|-----|
| A. Does the JCPC have written Bylaws? | Yes |
| B. Bylaws are <input checked="" type="checkbox"/> attached or <input type="checkbox"/> on file (Select one.) | |
| C. Bylaws contain Conflict of Interest section per JCPC policy and procedure. | Yes |
| D. Does the JCPC have written policies and procedures for funding and review? | Yes |
| E. These policies and procedures <input checked="" type="checkbox"/> attached or <input type="checkbox"/> on file. (Select one.) | |
| F. Does the JCPC have officers and are they elected annually?
JCPC has: <input checked="" type="checkbox"/> Chair; <input checked="" type="checkbox"/> Vice-Chair; <input checked="" type="checkbox"/> Secretary; <input checked="" type="checkbox"/> Treasurer. | Yes |

STANDARD #3 - Meetings

- | | |
|--|-----|
| A. JCPC meetings are considered open and public notice of meetings is provided. | Yes |
| B. Is a quorum defined as the majority of membership and required to be present in order to conduct business at JCPC meetings? | Yes |
| C. Does the JCPC meet bi-monthly at a minimum? | Yes |
| D. Are minutes taken at all official meetings? | Yes |
| E. Are minutes distributed prior to or during subsequent meetings? | Yes |

STANDARD #4 - Planning

- | | |
|---|-----|
| A. Does the JCPC conduct an annual planning process which includes a needs assessment, monitoring of programs and funding allocation process? | Yes |
| B. Is this Annual Plan presented to the Board of County Commissioners and to DPS? | Yes |
| C. Is the Funding Plan approved by the full council and submitted to Commissioners for their approval? | Yes |

Juvenile Crime Prevention Council Certification (cont'd)

STANDARD #5 - Public Awareness

- A. Does the JCPC communicate the availability of funds to all public and private non-profit agencies which serve children or their families and to other interested community members? (RFP, distribution list, and article attached) _____
Yes
- B. Does the JCPC complete an annual needs assessment and make that information available to agencies which serve children or their families, and to interested community members? _____
Yes

STANDARD #6 – No Overdue Tax Debt

- A. As recipient of the county DPS JCPC allocation, does the County certify that it has no overdue tax debts, as defined by N.C.G.S. §105-243.1, at the Federal, State, or local level? _____
Yes

Briefly outline the plan for correcting any areas of standards non-compliance.

We do not have the diversity on the JCPC that reflects the community but continue to work towards improvement. We do not have African American, Asian or Hispanic representation. Catawba County has a strong diversity program, and the JCPC and Board of Commission continues to search for representation/members who can dedicate time to participate in the JCPC.

Having complied with the Standards as documented herein, the Juvenile Crime Prevention Council may use up to \$15,500 of its annual Juvenile Crime Prevention fund allocation to cover administrative and related costs of the council. *Form JCPC/ OP 002 (b) JCPC Certification Budget Pages* detailing the expenditure budget must be attached to this certification.

The JCPC Certification **must be received by June 30, 2016.**

**JCPC Administrative Funds
SOURCES OF REVENUE**

DPS JCPC	
Only list requested funds for JCPC Administrative Budget.	_____
	\$13,498
Local	_____
Other	_____
Total	_____
	\$13,498

JCPC Chairperson Date

Chairman, Board of County Commissioners Date

DPS Designated Official Date

Juvenile Crime Prevention Council Certification (cont'd)

Catawba

County

FY 2017

Instructions: N.C.G.S. § 143B-846 specifies suggested members be appointed by county commissioners to serve on local Juvenile Crime Prevention Councils. In certain categories, a designee may be appointed to serve. Please indicate the person appointed to serve in each category and his/her title. Indicate appointed members who are designees for named positions. Indicate race and gender for all appointments.

Specified Members	Name	Title	Designee	Race	Gender
1) School Superintendent or designee	Dr. David Stegall	Supt. Newton-Conover Schools	<input type="checkbox"/>	W	M
2) Chief of Police	Lt. Brad Edwards	Hickory Police Dept	<input checked="" type="checkbox"/>	W	M
3) Local Sheriff or designee	Capt. Jason Beebe	Catawba Co Sheriff Office	<input checked="" type="checkbox"/>	W	M
4) District Attorney or designee	vacant		<input type="checkbox"/>		
5) Chief Court Counselor or designee	Ronn Abernathy	Chief Court Counselor	<input type="checkbox"/>	W	M
6) Director, AMH/DD/SA, or designee	Tara Conrad		<input checked="" type="checkbox"/>	W	F
7) Director DSS or designee	Karen Harrington	Asst. DSS Director	<input checked="" type="checkbox"/>	W	F
8) County Manager or designee	Jennifer Mace	Budget Officer	<input checked="" type="checkbox"/>	W	F
9) Substance Abuse Professional			<input type="checkbox"/>		
10) Member of Faith Community			<input type="checkbox"/>		
11) County Commissioner			<input type="checkbox"/>		
12) Two Persons under age 18 (State Youth Council Representative, if available)	Billy Rogers	Student, Discovery High	<input type="checkbox"/>	W	M
			<input type="checkbox"/>		
13) Juvenile Defense Attorney			<input type="checkbox"/>		
14) Chief District Judge or designee	Brandi Tolbert	District Court Trial Court Administratore	<input checked="" type="checkbox"/>	W	F
15) Member of Business Community			<input type="checkbox"/>		
16) Local Health Director or designee			<input type="checkbox"/>		
17) Rep. United Way/other non-profit	Jennie Connor	Executive Director Catawba United Way	<input type="checkbox"/>	W	F
18) Representative/Parks and Rec.			<input type="checkbox"/>		
19) County Commissioner appointee			<input type="checkbox"/>		
20) County Commissioner appointee			<input type="checkbox"/>		
21) County Commissioner appointee			<input type="checkbox"/>		
22) County Commissioner appointee			<input type="checkbox"/>		

Juvenile Crime Prevention Council Certification (cont'd)

23) County Commissioner appointee			<input type="checkbox"/>		
24) County Commissioner appointee			<input type="checkbox"/>		
25) County Commissioner appointee			<input type="checkbox"/>		

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Policy and Public Works Subcommittee

DATE: June 6, 2016

IN RE: Extension of Lease with Duke Energy Carolinas for the Sherrills Ford Convenience Center Site

REQUEST

The Policy and Public Works Subcommittee recommends the Board of Commissioners authorize County Manager, J. Thomas Lundy, to execute a Lease Amendment with Duke Energy Carolinas that allows Catawba County to continue to offer uninterrupted solid waste and recycling convenience center services to the Sherrills Ford area.

BACKGROUND

Duke Energy Carolinas has been very gracious and willing extend the terms of the existing lease agreement through this Amendment to June 30, 2025. The time frame and annual rental amount is a follows:

<u>Timeframe:</u>	<u>Annual Rental:</u>
July 1, 2016 – June 30, 2018	\$1,100.00
July 1, 2018 – June 30, 2021	\$1,250.00
July 1, 2021 – June 30, 2025	\$1,300.00

The agreement provides an “out clause” or termination by either party by means of sixty (60) days written notice effective the 60th day, but allows one year for the County to vacate the property while continuing to operate the site during the one year period. The annual rent during the one year termination period will be prorated based on the date that the County vacates the property.

The lease amendment was drafted by Duke Energy Carolinas. County staff has reviewed and approved the agreement as written.

RECOMMENDATION

The Policy and Public Works Subcommittee recommends the Board of Commissioners authorize County Manager, J. Thomas Lundy, to execute a Lease Amendment with Duke Energy Carolinas that allows Catawba County to continue to offer uninterrupted solid waste and recycling convenience center services to the Sherrills Ford area.

PREPARED BY: Karol P. Mack, Associate General Counsel, Duke Energy

Mail To: Duke Energy Carolinas, LLC
Land & Facilities Support Services
550 S. Tryon St., DEC20A
Charlotte, N.C. 28201

Site: 004411
Land Unit: 1175831
Project No.: 004411-376150

STATE OF NORTH CAROLINA

AMENDMENT OF LEASE

COUNTY OF CATAWBA

THIS AMENDMENT OF LEASE (the “Amendment”) is made and entered into as of the _____ day of _____, 20__ by and between **DUKE ENERGY CAROLINAS, LLC**, a North Carolina limited liability company (“Lessor”) and **CATAWBA COUNTY**, whose mailing address is P. O. Box 389, Newton, North Carolina 28658 (“Lessee”).

WHEREAS, Lessor and Lessee entered into a Lease Agreement dated July 20, 2009 (the “Lease”), whereby Lessor leased to Lessee the Leased Premises (as such term is defined in the Lease) solely for the purpose of a waste convenience site; and

WHEREAS, the Expiration Date of Lease is May 31, 2019, and Lessor and Lessee desire to extend the Expiration Date to June 30, 2025, and revise certain other terms of the Lease.

NOW THEREFORE, for and in consideration of the foregoing premises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee, intending to be bound hereby, do hereby amend the Lease, as follows:

- (1) Section 1 of the Lease is deleted in its entirety and replaced with the following:

Term: This Lease shall commence on June 1, 2009 (“Commencement Date”) and shall expire on June 30, 2025 (“Term”). The “Expiration Date” shall be June 30, 2025. Lessee shall notify Lessor in writing six months prior to the Expiration Date if Lessee desires to extend the Term; provided however, Lessor shall have no obligation to renew the Lease.

- (2) Section 2 of the Lease is deleted in its entirety and replaced with the following:

Rent: Lessee shall pay to the Lessor an annual rental in the amounts shown below, payable on or before August 1st of each year beginning 2017:

<u>Timeframe:</u>	<u>Annual Rental:</u>
July 1, 2016 – June 30, 2018	\$1,100.00
July 1, 2018 – June 30, 2021	\$1,250.00
July 1, 2021 – June 30, 2025	\$1,300.00

(3) Section 13 of the Lease is amended as follows:

Notices and Correspondence:

Lessor: Duke Energy Carolinas, LLC
Land & Facilities Support Services
550 South Tryon Street (DEC20A)
Charlotte, North Carolina 28202

Rent Payments:

Duke Energy Carolinas, LLC
Lease Administration
P. O. Box 1321 (DEC20A)
Charlotte, North Carolina 28201

All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Lease.

Except as amended by this Amendment, the terms of the Lease are hereby ratified and affirmed in all respects.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed this the day and year first above written.

LESSOR:
Duke Energy Carolinas, LLC
a North Carolina limited liability company

By: _____
Name: Ottis W. Allen
Title: Manager Real Estate Transactions Carolinas

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: **Ottis W. Allen, Manager Real Estate Transactions**

Date: _____

Notary Public

My Commission Expires: _____

[Signatures Continue on Following Page]

LESSEE:
Catawba County, a political subdivision of the
State of North Carolina

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that _____, personally came before me this day and acknowledged that he is the _____ County Manager of Catawba County, a political subdivision of the State of North Carolina, and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name.

WITNESS my hand and official seal this _____ day of _____, 20____.

My Commission Expires: _____
Printed Name: _____
Notary Public

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Finance and Personnel Subcommittee

DATE: June 6, 2016

IN RE: Duke Energy Water Resources Fund - \$100,000 Grant for Observation Platform at Riverbend Park

REQUEST

The Finance and Personnel Subcommittee recommends the Board of Commissioners approve the project budget ordinance in the amount of \$100,000 in order to construct a Catawba River Observation Platform at Riverbend Park, replacing the wooden structure previously destroyed in the 2013 flood.

BACKGROUND

Catawba County Planning and Parks Department re-applied to the North Carolina Community Foundation on January 21, 2016 for Duke Energy Water Resources funds to construct a Catawba River Observation Platform at Riverbend Park, replacing the wooden structure previously destroyed in the 2013 flood. The North Carolina Community Foundation awarded Catawba County a \$100,000 grant on March 30, 2016. The grant funds will be used for the following purposes:

Stone Backfill	\$500
Class A Concrete	\$50,000
Reinforcing Steel	\$12,000
Drilled Shafts	\$25,000
Rip Rap Class II	\$2,500
Kiosks and supporting Materials/Supplies	\$10,000

RECOMMENDATION

The Finance and Personnel Subcommittee recommends the Board of Commissioners approve the project budget ordinance in the amount of \$100,000 in order to construct a Catawba River Observation Platform at Riverbend Park, replacing the wooden structure previously destroyed in the 2013 flood.

Revenue

410-460100-682301 \$100,000

Expenditures

410-460100-18016-989000 \$100,000

MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Policy and Public Works Subcommittee

DATE: June 6, 2016

IN RE: Land Lease Agreement with Apple, Inc. and Landfill Gas Sales Agreement with Quadrogen, Inc.

REQUEST

The Policy and Public Works Subcommittee recommends the Board of Commissioners:

1. Adopt a Resolution authorizing the Lease of Property pursuant to NCGS 160A-272.
2. Approve a Ground Lease with Apple, Inc. to lease approximately 3.713 acres+/-;
3. Approve a Memorandum of Ground Lease (for recording with the Register of Deeds);
and
4. Approve a Landfill Gas Sales Agreement with Quadrogen, Inc.

BACKGROUND

The Land Lease:

Since November 2015, County staff has been actively negotiating with Apple, Inc. (Apple) regarding the lease of a portion of County property located at the Blackburn Resource Recovery Facility on Rocky Ford Road for the purpose of siting and operating a renewable energy facility. The initial term of the lease is for sixteen (16) years with the ability to extend an additional five (5) years if Apple so desires. NCGS 160A-272 authorizes units of local government to enter into leases with terms of more than 10 years for the siting and operation of a renewable energy facility.

The annual rent for the first five (5) years is \$1,500 per acre (\$5,569.50). Beginning with Year 6 of the Lease, and annually thereafter, the annual rent will be adjusted by the same percentage as the percentage change in the Consumer Price Index for All Urban Consumers - South Region - All Items as published by the United States Department of Labor – Bureau of Labor Statistics. However, the annual rent will never be less than \$1,500 per acre.

Landfill Gas Sales Agreement:

In September 2015, the County issued a Request for Proposals (RFP) for the Sale of Landfill Gas. In response to the RFP, Quadrogen, Inc. (Quadrogen) submitted a proposal to purchase raw, untreated landfill gas. County staff have subsequently negotiated a Landfill Gas Sales Agreement with Quadrogen. The agreement has an initial term of sixteen (16) years with the ability to extend an additional five (5) years (This term mirrors the term of the Apple Land Lease).

Currently, total landfill gas flow is approximately 1,200 standard cubic feet per minute (SCFM). The Landfill Gas Sales Agreement is limited to a maximum continuous flow quantity of landfill gas of 475 SCFM and the instantaneous flow rate may not exceed 500 SCFM. The proposed

Landfill Gas Sales Agreement will sell a maximum of approximately 40% of the total landfill gas flow. The remaining 60% of the landfill gas will continue to be used by the County to generate electricity.

The initial sales price of \$2.00 per mmBtu provides the County with an equal amount of revenue as would be realized through electricity sales using that same landfill gas. The initial sales price is for years one (1) through year five (5) of the agreement. Beginning in year 6, the landfill gas sales price will be increased by the same percentage of increase that the County's sale of electricity increases. At no time during the term of the agreement will the sales price be less than \$2.00 per mmBtu.

RECOMMENDATION

The Policy and Public Works Subcommittee recommends the Board of Commissioners:

1. Adopt a Resolution authorizing the Lease of Property pursuant to NCGS 160A-272.
2. Approve a Ground Lease with Apple, Inc. to lease approximately 3.713 acres+;
3. Approve a Memorandum of Ground Lease (for recording with the Register of Deeds);
and
4. Approve a Landfill Gas Sales Agreement with Quadrogen, Inc.

Resolution No. 2016-

Resolution Authorizing the Lease of Property

WHEREAS, Catawba County owns numerous parcels of property, located in Newton, collectively known as the Catawba County Blackburn Resource Recovery Facility, and is desirous of leasing an approximate 3.713 acre portion, along with appropriate easements, to Apple Inc. for purposes of a renewable energy facility.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Catawba County, North Carolina, as follows:

The Board of Commissioners determines that the approximate 3.71 acre portion of property along Rocky Ford Rd., Newton will not be needed for the term of the lease which is up to twenty years. The purpose of the lease is to generate to site a renewable energy facility and is consistent with North Carolina General Statute 160A-272.

This the 6th day of June, 2016.

C. Randall Isenhower, Chair

Catawba County Board of Commissioners

NORTH CAROLINA
CATAWBA COUNTY

GROUND LEASE

This Ground Lease (the “Lease”), is made and entered into as of _____, 2016, by and between **Catawba County**, a body politic and corporate in nature of the State of North Carolina (hereinafter referred to as “Lessor”) and **Apple Inc.**, a California corporation (hereinafter referred to as “Lessee”). Lessor and Lessee are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

STATEMENT OF PURPOSE:

Lessor is the fee owner of the real property and all improvements thereon known as the Catawba County Blackburn Resource Recovery Facility, which consists of multiple parcels located generally at 4017 Rocky Ford Road, Newton, Catawba County, North Carolina, 28658, and which is more particularly identified and described on **Exhibit A** attached hereto and made a part hereof (the “Property”), on which Lessor currently collects methane gas produced from decomposition of materials buried at the landfill (“LFG”) by means of Lessor’s existing LFG collection system and equipment on the Property (collectively the “County Gas Facility”).

Lessee desires to lease that portion of the Property identified on **Exhibit B** attached hereto and made a part hereof (collectively with the appurtenant rights, easements and licenses herein described, the “Premises”) for the purpose of constructing, installing, operating and maintaining a facility to consist of (i) fuel cells that will use LFG to generate electricity, (ii) equipment to treat and filter the LFG (the “Treatment Skid”) before it is used by the fuel cells, (iii) natural gas storage tanks to provide an additional fuel source for the fuel cells, and (iv) related improvements, infrastructure, pads, equipment, pipes, wires, conduits and metering equipment (collectively, the “Facility”).

The Facility will connect with and into the County Gas Facility so that LFG produced by Lessor at the County Gas Facility may be purchased from Lessor by a third party pursuant to a separate agreement (the “Landfill Gas Purchase Agreement”) and then piped from the County Gas Facility to the Premises. The LFG will then be filtered and treated by such third party using the Treatment Skid located on a portion of the Premises, and the cleaned LFG will then be supplied to Lessee at the Premises pursuant to a separate agreement with the third party (the “Clean Gas Purchase Agreement”).

Lessee will use the cleaned LFG to generate electricity at the Premises, which electricity is to be sold and transmitted by Lessee to Duke Energy Carolinas, LLC, its successors and/or assigns or applicable subsidiaries (“UtilityCo”) or other third parties.

The Premises shall also include and be defined as being together with (i) easements and/or licenses for the construction, operation and maintenance of components of the Facility and for utilities on and across other portions of the Property (which may include locating pipes, wires, conduits and related equipment under existing roads) as may be required to connect the Facility to the County Gas Facility, to pipe LFG from the County Gas Facility to the Treatment Skid on the Premises, to operate the Treatment Skid and the Facility, and to connect the Facility to UtilityCo’s electricity transmission grid; and (ii) the non-exclusive right of ingress and egress

on and across other portions of the Property to and from the Premises and the public roads that provide access to the Property seven (7) days a week, twenty four (24) hours a day pursuant to the terms and conditions set forth in this Lease; provided, however, the other portions of the Property that may be subject to such easements, licenses and right of ingress and egress shall be specifically limited to that part of the Property described as the tax parcel on which the Premises is located (being tax parcel 361803441000 as referenced on **Exhibit A**) and the three (3) tax parcels located southwest of and across Rocky Ford Road from the Premises (being tax parcels 361803318190, 361803333381 and 361803330376 as referenced on **Exhibit A**).

Lessor and Lessee have agreed that this Lease is to be treated as a solid waste landfill affiliated enterprise involving a renewable energy facility that generates electric power by use of a renewable energy resource such as landfill methane gas, and Lessor is willing to lease the Premises to Lessee on the terms and conditions contained in this Lease.

In consideration of the terms, conditions, responsibilities, benefits and mutual agreements provided for herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

In addition to the terms defined elsewhere in this Lease, when used in this Lease the following terms shall have the following meanings (defined terms shall have the same meaning when used in either the singular or plural):

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with such Person. For purposes of this definition, “control” (including related forms such as “controlled by” and “under common control with”) means the power, directly or indirectly, to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Commercial Operation” means the condition existing when (i) the Facility is mechanically complete and operating, and (ii) the Electrical Output is delivered through the Facility to UtilityCo’s transmission lines consistent with all applicable regulations.

“Condensate” means any liquid produced by the County Gas Facility.

“Delivery Point” means the delivery point whereby Lessee transfers the Electrical Output to UtilityCo’s transmission lines.

“Electrical Output” means the total quantity of all actual net electricity generated by the Facility and delivered to the Delivery Point in any given period of time. Electrical Output does not include the Environmental Incentives or Environmental Attributes.

“Environmental Attributes” means the characteristics of electricity generation at the Facility that have intrinsic value, separate and apart from the Electrical Output, arising from the perceived environmental benefits of the Facility or the Electrical Output, including the use of LFG to be supplied by Lessor, all environmental and other attributes that differentiate the Facility or the Electrical Output from other energy generated by fossil-fuel based generation units, fuels or resources, characteristics of the Facility that may result in the avoidance of environmental impacts on air, soil or water, such as the absence of emission of any oxides of

nitrogen, sulfur or carbon or of mercury, or other gas or chemical, soot, particulate matter or other substances attributable to the Facility or the compliance of the Facility or the Electrical Output with the law, rules and standards of the United Nations Framework Convention on Climate Change or the Kyoto Protocol to the United Nations Framework Convention on Climate Change or crediting “early action” with a view thereto, or laws or regulations involving or administered by the Clean Air Markets Division of the United States Environmental Protection Agency or successor administrator or any state or federal entity given jurisdiction over a program involving transferability of rights arising from Environmental Attributes and Reporting Rights.

“Environmental Incentives” means all rights, credits (including tax credits), rebates, benefits, reductions, offsets, allowances and entitlements of any kind, howsoever entitled or named (including carbon credits and allowances), whether arising under federal, state or local law, international treaty, trade association membership or the like, arising from the use of LFG to be supplied by Lessor to the Facility, the Environmental Attributes of the Facility or the Electrical Output or otherwise from the development or installation of the Facility or the production, sale, purchase, consumption or use of the Electrical Output. Without limiting the foregoing, “Environmental Incentives” include RECs, green tags, tradable renewable certificates, portfolio energy credits, the right to apply for (and entitlement to receive) incentive programs offered by the North Carolina Utilities Commission or other incentive programs offered by the State of North Carolina, the right to claim any available North Carolina state income tax credits and the right to claim any federal income tax credits under the Internal Revenue Code and any Regulations relating thereto.

“Facility” has the meaning set forth in the second recital paragraph of this Lease.

“Fuel Cell Effluent” means any liquid produced by Lessee’s fuel cells at the Premises.

“Good Industry Practice” means the practices, methods and acts that would be implemented and followed by a prudent operator of electricity generating facilities in the United States which are similar to the Facility and that, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, permits, codes, standards, equipment manufacturer’s recommendations, reliability, safety, environmental protection, economy and expedition. Good Industry Practices are not intended to be limited to the optimum practices, methods and acts to the exclusion of all others, but rather to include reasonable and prudent practices, methods and acts generally accepted by prudent operators of electricity generation facilities in the United States that are similar to the Facility.

“Person” means any individual, partnership, joint venture, limited liability company, corporation, trust or other entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so requires.

“Premises” has the meaning set forth in the second recital paragraph of this Lease.

“Property” has the meaning set forth in the first recital paragraph of this Lease.

“Reporting Rights” means the right of Lessee to report to any federal, state or local agency, authority or other party, under any present or future domestic, international or foreign emissions trading program, that Lessee owns the Environmental Attributes and the Environmental Incentives associated with the Electrical Output.

“RECs” means the set of non-energy attributes, including any and all “renewable energy certificates”, directly attributable to the amount of electricity generated from the Facility, specifically including “renewable energy certificates” within Article 7 of Chapter 62 of the North Carolina General Statutes, otherwise known as the Renewable Energy and Energy Efficiency Portfolio Standard Act, but shall otherwise include no other Environmental Attributes or Environmental Incentives.

“Treatment Skid Effluent” means any liquid produced by the Treatment Skid.

ARTICLE 2. LEASE OF PREMISES, DESCRIPTION

Section 2.01. Lessor hereby leases and demises unto Lessee for and during the Term (defined herein) and under the terms and conditions hereinafter set forth, the Premises, together with all rights, privileges and appurtenances pertaining thereto. The Parties shall upon written agreement determine the exact location of any easements, licenses, rights of way or other appurtenances required for the development and use of the Premises and the operation of the Facility, and any such agreement and location shall be deemed automatically incorporated into this Lease; provided, however, the other portions of the Property that may be subject to such easements, licenses and right of ingress and egress shall be specifically limited to that part of the Property described as the tax parcel on which the Premises is located (being tax parcel 361803441000 as referenced on **Exhibit A**) and the three (3) tax parcels located southwest of and across Rocky Ford Road from the Premises (being tax parcels 361803318190, 361803333381 and 361803330376 as referenced on **Exhibit A**). The Parties agree that this Lease shall not grant Lessee any rights in or to (and the definition of the Premises shall not be deemed to include) include any (i) buried trash, waste, debris or other materials, (ii) any groundwater, or (iii) any liner or cap materials, pipes or other equipment related to the operation of the landfill at the Property, that may be located beneath the surface of the ground area encompassed by the boundaries of the Premises, and that Lessee shall at no time have or be deemed to have any control over or responsibility for the County Gas Facility or any trash, waste, debris or other materials that may have been disposed of by Lessor as part of Lessor’s operation of the landfill at the Property.

Section 2.02. Lessee and its contractors, subcontractors, suppliers and engineers shall have such rights of ingress and egress to and from the Premises and over those necessary portions of the Property as may be required for the construction, installation, testing and start up of the Facility to place it in Commercial Operation. Lessee shall not use the Premises during the Term for any other uses without the express written permission of Lessor.

Section 2.03. Subject to the provisions of Section 13.04 of this Lease relating to the right to remove components of the Facility, Lessee shall be the legal and beneficial owner of the Facility at all times, and the Facility shall remain the personal property of the Lessee and shall not attach to or be deemed a part of, or fixture to, the Premises. The Facility shall at all times retain the legal status of personal property. Lessor covenants that it will place all parties having an interest in or lien upon the Premises on notice of the ownership of the Facility and the legal status or classification of the Facility as personal property of Lessee, and Lessor covenants not to permit any lien arising by, through or under Lessor to attach to the Facility. In the event the Property is encumbered by a deed of trust or other security interest, Lessor shall within thirty

(30) days after this Lease is executed with respect to any current deed of trust or security instrument, and within thirty (30) days of the recording of any future deed of trust or security instrument, obtain and furnish to Lessee, a recordable non-disturbance agreement in form reasonably acceptable to Lessee that protects the interests of Lessee under this Lease in the event of the exercise of any rights of the secured party under such deed of trust or other security. Lessor represents that any required consent to the terms and provisions in this Lease by any of Lessor's lenders have been obtained. Additionally, Lessor agrees that this Lease and any, licenses, easements or rights-of-way granted herein shall run with the Premises and shall survive any transfer of the Property or the Premises. The Parties agree to cause to be filed in the relevant land records a memorandum of this Lease in form and substance acceptable to the Parties.

Section 2.04. Lessee, and any subleasing entities or agents, shall provide Lessor with any information or data relating to Lessee's operation of the Facility as is or may be required for Lessor to meet Federal, State and/or Local regulatory requirements as related to Lessor's existing or any future Federal, State and/or Local permits, said permits to include but not be limited to Air Quality, Solid Waste, and Water Quality. Upon Lessor's written request for such information, Lessee agrees to promptly, but in no less than ten (10) days, supply the required information to Lessor. Lessor's written request to include regulatory justification for each such request.

ARTICLE 3. TERM AND RENT

Section 3.01. The initial term of this Lease (the "Term", which shall include any extension thereof) shall be for sixteen (16) years, commencing on the date of this Lease (the "Commencement Date"). Provided that Lessee is not in default under this Lease at the time the option is exercised, Lessee has the option to extend the Term for an additional period of five (5) years by giving Lessor notice of Lessee's decision to so extend the Term at least six (6) months prior to the expiration of the initial Term.

Section 3.02. During the Term of this Lease, Lessee shall pay to Lessor an annual rent in an amount as indicated in Exhibit C within thirty (30) days following the Commencement Date and thereafter within thirty (30) days following each anniversary of the Commencement Date.

ARTICLE 4. USE AND ADDITIONAL PROVISIONS

Section 4.01. The Premises may be used to perform all processes necessary for the Facility to generate electric power on the Premises using fuel cells powered by LFG supplied in its raw state from the County Gas Facility, to be cleaned to Lessee's requirements by a third party pursuant to an agreement separate from this Lease, and to connect to UtilityCo's electric grid to transmit such electric power from the Premises to UtilityCo, as described in this Lease. Lessee shall have the right to sell the electric power generated by the Facility to UtilityCo or any other third-party. Lessor may not unreasonably interfere with the use or enjoyment of the Premises by Lessee or unreasonably interfere with or materially adversely affect the operation of the Facility or conduct of Lessee's business in or on the Premises.

Section 4.02. Lessee and/or its Affiliate shall own, and may assign or sell in its sole discretion, all right, title and interest associated with any and all Environmental Incentives and Environmental Attributes resulting from the development and installation of the Facility and the production, sale, purchase or use of the Electrical Output, including the Reporting Rights and the exclusive rights to claim that the Electrical Output was generated by the Facility and to claim any reductions in emissions of pollution and greenhouse gases resulting from the generation of the Electrical Output and the delivery thereof to the Delivery Point (as compared to other electricity generation methods) resulting from the Facility. Lessee and/or its Affiliate are entitled to all credits, certificates, registrations, etc., evidencing or representing any of the foregoing.

Section 4.03. Lessee shall have the right to sublease or license a portion of the Premises and related rights hereunder to Fuel Cell Energy, Inc. and Quadrogen Power Systems, Inc., or an Affiliate of either of such companies (each, an “Operator”) to own, install, maintain and/or operate the Treatment Skid and other components required for the operation of the Facility, to purchase, accept, process, treat and/or filter on the Premises LFG from the County Gas Facility, to provide cleaned LFG to Lessee on the Premises, and/or to perform other services relating to the operation of the Facility. Any change in or addition of any Operator shall require the consent of Lessor, which consent will not be unreasonably withheld, conditioned or delayed. Lessee is responsible to Lessor for all actions of any Operator, sublessee or licensee of Lessee relating to such activities on the Premises.

Section 4.04. [Intentionally deleted].

Section 4.05. In accordance with all applicable laws and permits (and subject to (i) Lessor obtaining all required permits and authorizations, (ii) Lessee and Lessor confirming the technical feasibility and the cost of doing so, and (iii) Lessee and Lessor approving the plans therefor), Lessee will make available to Lessor, upon Lessor’s request and at Lessor’s sole cost, “waste heat” generated from Lessee’s Facility if Lessor desires to make use of such waste heat for digester heating and/or heating of the Lessor’s improvements elsewhere on the Property or for any other permitted use. Lessor, at its sole cost, shall (i) provide and install all such waste heat capture and conveyance equipment, (ii) be wholly liable for the operation of all such waste heat capture and conveyance equipment, and (iii) shall, to the extent allowed by North Carolina law, indemnify, defend and hold harmless Lessee Indemnified Parties from and against any loss, liability, claim, damage, or expense directly arising out of the operation of all such waste heat capture and conveyance equipment, except to the extent such damage is based on or results directly out of the negligent or willful acts or omissions of any Lessee Indemnified Party. If Lessor and Lessee decide to proceed with the installation of such waste heat capture and conveyance equipment by Lessor, Lessor shall have a right of access, ingress and egress upon and across the Premises as reasonably necessary for the installation, operation and maintenance thereof, provided that the exercise of such right by Lessor must not interfere with the activities of Lessee on the Premises.

Section 4.06. In accordance with all applicable laws and permits (and subject to obtaining all required permits and authorizations), Lessor, at its own cost, shall take and accept the Treatment Skid Effluent and the Fuel Cell Effluent for disposal or permitted use thereof by Lessor. Lessee shall deliver such effluents to mutually agreeable locations on the Property (and as to the Treatment Skid Effluent, Lessor and Lessee agree that delivery may be made by piping

it to Lessor's existing storage tanks on the Property that are part of the County Gas Facility) at Lessee's sole cost and Lessor shall be deemed to have taken control of the effluents at such locations. It is understood and agreed that the Fuel Cell Effluent is generally clean and the Treatment Skid Effluent is generally unusable, and that the agreement of Lessor under this section of the Lease is based upon Lessor's acceptance, and Lessee's delivery, of both the Fuel Cell Effluent and the Treatment Skid Effluent.

The chemical composition of Lessee's effluents must be identical to (or cleaner than) the composition of Lessor's Condensate on the Commencement Date. Should Lessee's effluent have any altered chemical composition from Lessor's Condensate, Lessor will only accept it if combining it with Lessor's Condensate does not create any hazards, interfere with the performance of Lessor's equipment or operations and is permissible with all local, state and federal laws and regulations. Lessee agrees it shall be responsible for any additional costs incurred by Lessor associated with handling and processing any effluent with altered chemical composition that Lessor rejects because it does not meet the requirements in the previous sentence.

ARTICLE 5. MAINTENANCE; UTILITIES

Lessee shall operate and maintain the Facility in accordance with Good Industry Practice, and Lessee shall pay all fees or other charges for the installation, connection, and utilization of all utilities required for the use and operation of the Facility. Lessor shall not be responsible for any costs associated with the construction, installation, operation, maintenance, improvement, repair or replacement of the Facility, including, but not limited to the cost of all utility services and connections to the Facility.

ARTICLE 6. COMPLIANCE WITH APPLICABLE LAWS

Lessee shall at its sole cost and expense comply, or ensure compliance, with all federal, state, and local laws, ordinances, rules, regulations, and requirements applicable to the installation, maintenance, use, operation, or management of the Facility.

ARTICLE 7. CONDITION OF PROPERTY

Lessor agrees to cooperate with Lessee with respect to obtaining all required permits, license and approvals for the construction of the Facility and the delivery of utilities to the Premises subject to (i) Lessor's general obligations applicable to review and approval of any development on the Premises and/or the Property, (ii) all applicable requirements in any applicable building code, and (iii) any specific development or permitting requirements that may be applicable to the Property as being used as a landfill by Lessor.

ARTICLE 8. OPERATION OF FACILITY

Section 8.01. Subject to the terms hereof, Lessor shall provide Lessee with non-exclusive reasonable rights of ingress and egress to the Premises and the Facility during the Term and such additional time as is provided in this Lease for the removal of the Facility as

provided in this Lease. Lessor shall act reasonably in coordinating with Lessee with respect to Lessee's access needs over, upon and across any portion of the Property located outside of the Premises. Notwithstanding anything to the contrary contained herein, Lessee shall have the right to access the Premises in an emergency relating to the Facility without prior notice to Lessor; provided, however, that Lessee shall give notice to Lessor of such entry in a reasonable time period, which may be after such entry if the circumstances so dictate.

Section 8.02. Lessee shall use its commercially reasonable efforts to obtain necessary approvals from all governmental agencies and from UtilityCo for the operation of the Facility, including the submission of applications for interconnection of the Facility with UtilityCo. If UtilityCo fails to approve the interconnection of the Facility, or if Lessee is not able to obtain all necessary approvals and/or permits or any applicable tax credits, then Lessee may at Lessee's option, immediately terminate this Lease, in which case and unless otherwise consented to in writing by Lessor, Lessee at its sole cost and expense shall remove all of the Facility components, including without limitation any utility connections to or from the Facility, from the Premises. Lessee then shall substantially restore the Premises, and any other portion of the Property impacted by Lessee's use of the Premises, to their condition as of the effective date of this Lease, reasonable wear and tear and damage caused by casualty excepted, using prudent engineering standards to the reasonable satisfaction of Lessor, to be completed within six (6) months of the date of termination. Lessee's removal and restoration obligations in this Section shall survive the termination of this Lease. Lessor hereby agrees to cooperate with Lessee in obtaining any necessary permits or approvals but shall not be required to expend funds or incur any costs in assisting Lessee in obtaining any necessary permits and approvals. Lessee shall comply with the terms of all permits applicable to the operation of the Facility. Notwithstanding anything herein to the contrary, Lessor's agreement to cooperate with Lessee in obtaining any necessary permits or approvals shall not waive, vary or fulfill any of Lessor's development plans review obligations under any laws that are applicable to any development on the Premises and/or the Property.

ARTICLE 9. HAZARDOUS MATERIALS

Section 9.01. Lessor represents that to the best of its knowledge no hazardous materials, hazardous substances, or other dangerous or toxic substances, or wastes have been added to the Premises by Lessor during the period of time it has been owned by Lessor, except in the context of the use and operation of the Property as a landfill. Lessor further represents and warrants that its use and operations of the Property as a landfill has been and during the Term of this Lease will be in compliance with all applicable federal, state and local laws and regulations. Lessor acknowledges and agrees that Lessor is responsible for any such hazardous materials, hazardous substances, or other dangerous or toxic substances, or wastes existing on the Premises as of the Commencement Date, and to the extent allowed by North Carolina law, Lessor further agrees to indemnify and hold harmless Lessee, its officers, members, managers, employees, successors and assigns ("Lessee Indemnified Parties") from any and all damages, liabilities, claims, losses, reasonable legal, accounting, consulting, engineering and other expenses which may be imposed upon or incurred by Lessee arising from or in connection with Lessor's prior use of the Premises and ongoing operation at the Blackburn Landfill. This indemnity shall survive the termination of this Lease and shall be in addition to Lessor's other obligations as set forth herein.

Section 9.02. Lessee shall not cause or permit the Premises or any part thereof to be used to generate, manufacture, refine, transport, produce, store, use or process hazardous materials, hazardous substances, or other dangerous or toxic substances, or wastes, except in the context of the use and operation of the Facility. Lessee further agrees to indemnify and hold harmless Lessor, its officers, members, managers, employees, successors and assigns (“Lessor Indemnified Parties”), from any and all damages, liabilities, claims, losses, reasonable legal, accounting, consulting, engineering and other expenses which may be imposed upon or incurred by Lessor to the extent based on or resulting from or in connection with Lessee’s treatment, use, storage, handling and disposal of any hazardous materials, hazardous substances, or other dangerous or toxic substances, or wastes on the Premises or associated with the Facility to the extent allowed by law. For clarity, Lessee’s indemnification obligations shall not extend to any pre-existing hazardous materials at the Premises or any hazardous materials not brought to the Premises by Lessee and its employees, agents, guests and/or invitees. However Lessee’s indemnification obligations shall extend to the activities on the Premises of any sublessee, agent or licensee of Lessee during the term of this Lease. This indemnity shall survive the termination of this Lease and shall be in addition to Lessee’s other obligations as set forth herein.

ARTICLE 10. TAXES OR ASSESSMENTS

Any and all taxes and other assessments which may be levied upon the Facility, and upon any alterations, additions and improvements thereto, shall be paid by Lessee prior to the time when such taxes and other assessments become delinquent. However, Lessee shall not have any obligation to pay any ad valorem real property tax applicable to the Premises itself or applicable to the Premises as a portion of the Property. Lessee shall have the right, at Lessee’s own cost and expense, to contest the amount or legality of any taxes which it is obligated to pay hereunder and make application for the reduction thereof, or any assessment upon which the same may be based, but only in compliance and accordance with such procedures and requirements as may be imposed by the applicable taxing authority. If Lessee shall contest such tax assessment or other imposition, the time within which Lessee shall be required by this Lease to pay the same shall be extended only in compliance and accordance with the procedures and requirements of the applicable taxing authority the until such contest or application shall have been finally determined; provided, however, that (i) Lessee shall be responsible for any penalty imposed by the taxing authority resulting from the late payment of taxes due to said contest, and (ii) Lessee shall pay such taxes (under protest if necessary) in time to prevent any tax lien or claim against the Property becoming the subject of an enforcement action.

ARTICLE 11. INSURANCE

Section 11.01. Lessee agrees to maintain in force and effect for the entire Term insurance in such amounts as shown below. Lessor shall continuously be shown as an additional insured on the Commercial General Liability insurance required below. Prior to the beginning of the Term and annually thereafter, Lessee shall deliver to Lessor certificates of insurance, including additional insured endorsements, in a form reasonably acceptable to Lessor, which show that the insurance set forth herein are in effect. In the event of cancellation or non-renewal of any insurance during the Term, Lessee shall promptly replace the effected insurance so that no lapse in coverage occurs.

(a) Commercial General Liability Insurance. Lessee shall maintain in full force and effect during the Term of this Lease, and at its own expense, commercial general liability insurance for bodily injury, property damage, personal injury, advertising injury, contractual liability assumed under the provisions of this Lease, and products/completed operations liability arising out of, or related to, the use of the Facility, such insurance to provide liability limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, combined single limit. Lessor shall be named as additional insured on said policy to the extent of liabilities falling within Lessee's indemnity obligations under the terms of this Lease.

(b) Workers' Compensation Insurance. In the event that Lessee has employees for whom workers' compensation insurance is required to be carried under North Carolina law, Lessee shall maintain Workers' Compensation and Employer's Liability Insurance covering all of its employees to be engaged in the work related to the use of the Facility, providing the required statutory benefits under North Carolina Workers' Compensation Law and Employer's Liability Insurance providing limits at least in the amount of \$1,000,000/\$1,000,000/\$1,000,000 applicable to claims due to bodily injury by accident or disease. In addition, Lessee shall cause its contractor and any subcontractors entering the Premises and any operator of the Premises to maintain Workers' Compensation and Employer's Liability Insurance in connection with its activities on the Premises as required herein and by North Carolina law.

(c) Business Automobile Liability Insurance. Lessee shall maintain in full force and effect during the term of this Lease, and at its own expense, business automobile liability insurance with liability limits of not less than One Million Dollars (\$1,000,000) combined single limit, covering owned, non-owned and leased vehicles used by Lessee with respect to the use of the Facility.

(d) Property Coverage Insurance. During the Term, Lessee shall maintain property insurance against loss and/or damage to the Facility under a policy or policies covering perils as are ordinarily insured against by similar facilities, including without limiting the generality of the foregoing, fire, lightning, windstorm, windblown rain, hail, explosion, smoke and uniform standard extended coverage and vandalism and malicious mischief endorsements, but in all cases equivalent to coverage afforded by ISO Special Form Property Insurance. Such insurance shall be in an amount not less than the full replacement cost of the Facility (subject to reasonable deductibles to be paid by Lessee). No such policy of insurance shall be written so that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provision or otherwise, without the prior written consent of Lessor.

Section 11.02. Notwithstanding anything to the contrary herein, as long as Apple Inc. is the Lessee, then Lessee shall have the right to self-insure any or all of the insurance required under this Article 11. If Lessee self-insures such coverage, then Lessee agrees that it shall be responsible for any losses or liabilities, including the provision of a defense, which would have been assumed by a reputable insurance carrier which would have issued the insurance required from Lessee under this Article 11, and Lessee agrees that it shall be bound by the waiver of subrogation as stated in Section 11.04 as if it were a third party insurer.

Section 11.03. Should any damage or impairment to the Facility result from fire or other insured casualty, Lessee agrees that all personal property of Lessee, including the Facility, in or on the Premises shall be at the risk of Lessee only and that Lessor shall not be liable for damage thereto under any circumstances, unless such damage or impairment results from the gross negligence or willful misconduct of Lessor, in which case Lessor shall be liable for such damage or impairment. Neither Lessor nor any of its mortgagees shall have any right, title or interest with respect to the Facility and/or any insurance proceeds with respect thereto.

ARTICLE 12. DESTRUCTION OF FACILITY

If the Facility is (i) partially or totally destroyed by any cause or (ii) condemned, confiscated or otherwise taken, in whole or in material part, or the use thereof is otherwise diminished so as to render impracticable or unreasonable the continued production of Electrical Output, Lessee shall have the option to terminate the Lease by providing written notice to Lessor. If Lessee elects to terminate the Lease, then Lessee, at its expense and at Lessor's option, shall be obligated to remove the Facility and restore any areas of the Premises affected by such removal to their condition that pre-existed the construction of the Facility.

ARTICLE 13. TERMINATION

Section 13.01. Lessee may at any time terminate this Lease without cause upon sixty (60) calendar days' advance written notice to Lessor.

Section 13.02. Lessor may terminate this Lease with no further obligation upon an Event of Default by Lessee. The following constitute an "Event of Default":

(a) Material breach of this Lease by Lessee, which is not cured after ninety (90) calendar days' written notice to the Lessee (or if such breach is caused by a default other than the failure of Lessee to pay a monetary amount then due and such breach cannot be cured within ninety (90) calendar days, then within a reasonable period of time, provided Lessee proceeds promptly and diligently to cure such default).

(b) If Lessee becomes the subject of a bankruptcy proceeding or otherwise files for protection against the claims of its creditors or ceases to exist; provided, however, neither (i) any change in the equity ownership of Lessee nor (ii) a merger of Lessee with another entity, shall terminate, or entitle Lessor to terminate, this Lease.

Section 13.03. In the event Lessor defaults in fulfilling any of the material terms, covenants or conditions of this Lease, Lessee shall give Lessor written notice thereof. If such material default is not remedied within ninety (90) days after receipt of such notice (provided that if such default is not susceptible of being cured within such ninety (90) day period, the time permitted Lessor to cure the default shall be extended for as long as shall be reasonably necessary to cure such default if Lessor commences promptly and proceeds diligently to cure such default), then Lessee shall have the right to terminate this Lease and Lessor shall pay to Lessee the costs incurred by Lessee in the removal of the Facility and the restoration of the Premises as provided in Section 13.04, plus all other amounts then due and owing by Lessor to Lessee.

Additionally, in the event that any lender holding a lien on the Property who has not entered into and recorded a non-disturbance agreement in accordance with this Lease files a lis pendens, or otherwise commences a Foreclosure (defined below), and at all times thereafter, Lessee shall have the right to terminate this Lease and Lessor shall pay to Lessee the costs incurred by Lessee in the removal of the Facility and the restoration of the Premises as provided in Section 15.04, plus all other amounts then due and owing by Lessor to Lessee. For purposes of this Lease, a “**Foreclosure**” shall include a sheriff’s sale after judicial foreclosure proceedings, a trustee’s sale under the power of sale contained in any deed of trust, the termination of any superior lease of the Property and any other transfer of Lessor’s interest in the Property under peril of foreclosure, including an assignment or sale in lieu of foreclosure, the result of any of which is the termination of Lessee’s interest under this Lease.

Section 13.04. Upon expiration or termination of this Lease, Lessor shall, at its option and without further written notice, have the right to require removal of all of the above ground components of the Facility by Lessee; provided, however, if this Lease is terminated prior to the end of the stated Term or any extension thereof, then Lessor shall have the right to require Lessee to leave the Treatment Skid and related equipment that connects the Treatment Skid with and into the County Gas Facility and remove all of the other above ground components of the Facility. Notwithstanding the foregoing, in no event shall Lessee be required to remove any underground pipes, conduits or wires, but if these are left in place, Lessee shall cap or safely terminate them. In the event that Lessor elects to require removal of the Facility pursuant to this paragraph, Lessee shall, at Lessee’s expense, remove all of its tangible property comprising the Facility, including without limitation any above ground electric and/or communication connections or other utilities to or from the Facility (unless otherwise consented to in writing by Lessor), from the Premises and shall substantially restore the Premises, and any other portion of the Property impacted by Lessee’s use of the Premises, to their condition as of the effective date of the Lease, reasonable wear and tear and damage caused by casualty excepted, using prudent engineering standards to the reasonable satisfaction of Lessor, to be completed by a mutually convenient date but in no case later than one hundred eighty (180) days after the expiration or termination of this Lease. Removal of the Facility and any associated improvements shall be done in such a manner as to not adversely affect the potential re-use of the Premises. Lessor agrees and acknowledges that all of the Facility (including all of its components) shall remain the sole property of Lessee and Lessee shall in any event have the right to remove the same, whether or not said items are considered fixtures and attachments to real property under applicable law. Lessor waives any and all right, title and interest, and without limitation, any “landlord’s lien”, in and to the Facility. If Lessee fails to remove the Facility within 180 days of the end of the Term, the Facility shall be deemed abandoned and shall become the property of Lessor at no additional cost; however, Lessor may still enforce against Lessee the obligation to remove the Facility at Lessee’s expense, at the option of Lessor. Lessee’s obligation to remove the Facility and restore the Premises (and any other portion of the Property impacted by Lessee’s use of the Premises) as set out in this Section shall survive the expiration or termination of this Lease.

Section 13.05. In the case of a default by either Party that continues beyond any applicable notice and cure periods, the defaulting Party shall be liable to reimburse the non-defaulting Party for such non-defaulting Party’s reasonable attorneys’ fees, reasonable expenses and costs relating to such default.

ARTICLE 14. INDEMNIFICATION

Section 14.01. To the extent allowed by North Carolina law, Lessor shall indemnify, defend and hold harmless Lessee Indemnified Parties from and against any loss, liability, claim, damage, or expense directly arising out of any breach of any representation, warranty or covenant made by Lessor pursuant to this Lease, except to the extent such damage is based on or results directly out of the negligent or willful acts or omissions of any Lessee Indemnified Party.

Section 14.02. Lessee shall indemnify, defend and hold harmless Lessor Indemnified Parties from and against any loss, liability, claim, damage, or expense directly arising out of any breach of any representation, warranty or covenant made by Lessee pursuant to this Lease, except to the extent such damage is based on or results directly out of any breach by Lessor of its obligations hereunder or the negligent or willful acts or omissions of any Lessor Indemnified Party. Further, Lessee shall, to the greatest extent authorized by law, defend, indemnify and hold harmless Lessor Indemnified Parties from all claims based on injury to persons or damage to third party property, and all resulting damages, losses, and expenses including, but not limited to, reasonable attorneys' fees and other costs of defense related thereto, to the extent based on or resulting from the installation, operation, maintenance or repair of the Facility by Lessee and/or its contractors and/or subcontractors, including without limitation (i) the negligence or willful misconduct by Lessee and/or its contractors and/or subcontractors in connection with the construction, repair, maintenance, replacement or use of the Facility, (ii) any violation by Lessee and/or its contractors and/or subcontractors of any applicable law relating to the Facility or the use of the Facility, or (iii) the failure by Lessee and/or its contractors and/or subcontractors to keep the Facility in a safe operating condition.

ARTICLE 15. FORCE MAJEURE

If either Lessor or Lessee is rendered unable, wholly or in part, by force majeure or any other cause of any kind not reasonably within its control, to perform or comply with any obligation or condition of this Lease, upon giving notice to the other Party stating the particulars, such obligation or condition shall be suspended during the continuance of the inability so caused and such Party shall be relieved of liability and shall suffer no prejudice for failure to perform the same during such period. Obligations to make payments presently due and payable when the force majeure arises shall not be excused by assertion of a force majeure situation. The Party asserting the force majeure shall have the obligation to remedy the problem as far as possible with all reasonable dispatch. The term "force majeure" shall include: acts of God, war, terrorism, fire, accidents, strikes, acts, orders or impositions of any kind of any courts or governmental authorities, equipment breakdowns, requirement by the North Carolina Utilities Commission that the Facility discontinue operation for any reason, appropriation or diversion of Electrical Output by sale or order of any governmental authority having jurisdiction thereof and other occurrences outside the asserting Party's control.

ARTICLE 16. COVENANTS AND ACKNOWLEDGMENTS OF THE PARTIES

Section 16.01. During the Term, Lessee shall peaceably and quietly have, hold and enjoy the Premises and the Facility for the purposes herein enumerated without hindrance, molestation

or interruption by Lessor or anyone claiming by, through, or under Lessor, so long as Lessee observes all terms, covenants and conditions to be performed and observed in this Lease, after giving effect to any applicable notice and cure period; provided, however, that the assertion of claims by third-parties, in litigation or otherwise, relating to Lessee's use or occupancy of the Premises that have not resulted in an enforceable order, judgment or settlement affecting such use or occupancy shall not be deemed to constitute a hindrance, molestation, or interruption of Lessee's quiet enjoyment of the Premises within the meaning of this Section unless such claims result in an actual or constructive eviction of Lessee. Without limiting the generality of the foregoing, Lessor has not and shall not in the future enter into any enforceable leases or other agreements with third-parties that would interfere with the rights granted to Lessee under this Lease, unless otherwise consented to in writing by Lessee.

Section 16.02. Lessor acknowledges and agrees that Lessee may finance the construction and installation of the Facility by equity investments in Lessee, conventional debt financing and/or otherwise (individually or collectively, "Financing"). Lessor agrees to cooperate with Lessee in connection with any Financing and to enter into such documents and agreements as may reasonably be required by the parties providing the Financing (the "Financing Parties"), including without limitation estoppel certificates, an assignment of rights under this Lease, a consent to a sublicense and sublease of the rights of the Lessee hereunder, a consent to the grant of a security interest herein and an agreement to provide notice of default to any Financing Party and the right of such Financing Party to cure any default hereunder (for at least a period equal to the greater of 30 days or the cure period available to the Lessee) and of the Financing Party to transfer any rights acquired by assignment, the grant of a security interest or otherwise. Notwithstanding the foregoing, Lessee agrees to obtain the consent of Lessor to any assignee or transferee, such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that Lessor's consent shall not be required in connection with a foreclosure under any lien or any further transfer by any party obtaining an interest in the Facility or this Lease by way of foreclosure. In addition, upon Lessee's request, Lessor shall execute and deliver in favor of any Financing Party, an agreement pursuant to which Lessor shall permit any such Financing Party to enter the Premises as reasonably necessary to disassemble and remove any such equipment, machinery or other personal property (including the Facility) which may secure repayment of Lessee's indebtedness to such Financing Party. Any successor, assignee or transferee shall execute an assumption agreement reasonably acceptable to Lessor pursuant to which the assignee or transferee agrees to assume the obligations of the Lessee arising after the date of the assumption.

Section 16.03. Lessee shall not subject the Premises to any liens or encumbrances in connection with Lessee's construction, installation or operation of the Facility. Lessee shall not, at any time, suffer or permit the attachment to the Property or the Premises of any mechanic's or materialmen's lien for work done or materials furnished in connection with any improvement, construction, repair or maintenance of the Premises or the Facility by Lessee. If any such lien attaches to the Premises, Facility or Property and is not discharged or released within thirty (30) days from the date of attachment, Lessor may, at its option, at without limitation on any other right or remedy available to Lessor, pay to the lien claimant the amount of such lien and notify Lessee of such payment, in which event such amount shall be immediately due and payable by Lessee as additional rent.

Section 16.04. To the extent that Lessor provides and takes reasonable measures for security of Lessor's overall Property (such as inspecting and maintaining fences and gates, monitoring or controlling access by third parties or patrolling the Property), Lessee and the Premises shall be entitled to the indirect benefit thereof and Lessor shall not intentionally exclude the Premises from the benefit or scope of such security measures as conducted by Lessor from time to time, but in no event shall Lessor be or become liable to Lessee for the failure to provide or take any such security measures.

ARTICLE 17. REPRESENTATIONS AND WARRANTIES

Section 17.01. Each Party represents and warrants to the other Party that (a) such Party is duly organized, validly existing and in good standing under the laws of the state of its formation, has duly qualified to transact business in North Carolina and has all requisite power and authority to enter into this Lease, to perform its obligations hereunder and to consummate the transactions contemplated hereby; (b) the execution and delivery of this Lease and the performance of such Party's obligations hereunder have been duly authorized by all necessary action; (c) this Lease is a legal, valid and binding obligation of such Party enforceable against such Party in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to (i) bankruptcy and other similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law); (d) to such Party's knowledge, no governmental approval (other than any governmental approvals which have been previously obtained or disclosed in writing to the other Party) is required in connection with the due authorization, execution and delivery of this Lease by such Party or the performance by such Party of its obligations hereunder which such Party has reason to believe that it will be unable to obtain in due course; and (e) neither the execution and delivery of this Lease by such Party nor compliance by such Party with any of the terms and provisions of this Lease conflicts with, breaches or contravenes the provisions of such Party's organizational documents or any applicable laws, rules or regulations.

Section 17.02. Lessor represents, warrants and covenants to and with Lessee that (i) there are no circumstances known to Lessor or enforceable commitments to third parties that may damage, impair or otherwise adversely affect the Facility or its function or Lessee's ability to operate the Facility, (ii) Lessor will not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect the Facility or its function or Lessee's ability to operate the Facility, and (iii) there are no enforceable restrictions, covenants, or commitments to third-parties that either (a) constitute a security interest in the Property, or (b) relate to the use and occupancy of the Property, including the operation of the Facility, which prevent Lessee's maintenance, operation, or removal of the Facility or intended use of the Premises.

ARTICLE 18. LESSOR'S RIGHT TO INSPECT

Upon reasonable notice to Lessee, and, if required by Lessee, in compliance with Lessee's security requirements and accompanied by a representative of Lessee, Lessor shall have the continuing right of entry upon the Premises at reasonable times and in a reasonable manner

for the purposes of inspecting and monitoring the Premises and the Facility and other reasonable uses and purposes not inconsistent with the Lessee's use of the Premises. Lessor may not, however, thereby unreasonably interfere with the use or enjoyment of the Premises or the Facility by Lessee or unreasonably interfere with or materially adversely affect the conduct of Lessee's business in or on the Premises.

ARTICLE 19. CONFIDENTIALITY AND PUBLICITY

Section 19.01. Lessor and Lessee acknowledge and agree that the terms of this Lease are generally considered and treated as public information and shall be subject to all disclosure requirements as a public document. However, if in connection with the negotiation or administration of this Lease either Party discloses confidential information, as that term is defined by N.C. Gen. Stat. §132-1.2, to the other which is marked as "Confidential" on the document by the disclosing Party, then such confidential information shall be treated in a confidential manner to the extent allowed and as provided by law. Prior to the disclosure of such confidential information to a third person, the Party proposing or required to do so shall seek the prior written consent of the non-disclosing Party, which consent shall not be unreasonably withheld. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

Section 19.02. Notwithstanding the preceding subsection, this Article and the restrictions herein contained shall not apply to any data or documentation which is:

(a) Required to be disclosed pursuant to state or federal law, an order or requirements of a regulatory body or a court, provided that the disclosing Party provides five Business Days' notice of such intended disclosure to the non-disclosing Party or if five Business Days' notice is not practical, then such shorter notice as is practical;

(b) Disclosed by a Party to an Affiliate of such Party, or to the Party or Affiliate's attorneys, accountants, or business advisers, or in connection with an assignment permitted by this Lease; or

(c) As of the time of disclosure, public knowledge without the fault of the disclosing Party.

Section 19.03. Each Party agrees that it shall not issue any press release regarding the Facility without the prior consent of the other, which the other Party may give or withhold in its sole discretion; provided, however, (i) Lessee may disclose the existence of and general information about the Facility as part of its disclosures relating to its renewable energy efforts and (ii) nothing set forth herein shall be deemed to limit the ability of any elected official or employee of Lessor to speak at conferences, as part of a panel discussion, or to the general public about the general benefits of the project undertaken by Lessor and Lessee under this Lease, provided that Lessor shall review the information to be conveyed with Lessee prior to conveying it and address any reasonable comments of Lessee.

ARTICLE 20. LIMITATION ON LIABILITY

FOR BREACH OF ANY PROVISION OF THIS LEASE THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED. EXCEPT FOR THIRD PARTY CLAIMS FOR WHICH A PARTY IS REQUIRED TO INDEMNIFY THE OTHER PARTY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE.

ARTICLE 21. NONDISCRIMINATION PROVISIONS.

Lessee, and its agents, officials, employees and servants, shall not discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this contract, no matter how remote.

ARTICLE 22. MISCELLANEOUS

Section 22.01. This Lease may only be amended or modified by a written instrument signed by both Parties. The Parties acknowledge that adjustments in the terms and conditions of this Lease may be necessary to address changes in laws or regulations that could not be anticipated at the date of execution of this Lease or that are beyond the control of the Parties, and the Parties agree to make such commercially reasonable amendments as are reasonably required to comply therewith.

Section 22.02. This Lease constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof.

Section 22.03. This Lease shall be governed under the laws of the State of North Carolina. Venue for any civil action between the Parties shall be Catawba County Civil Superior Court or the United States District Court for the Western District of North Carolina.

Section 22.04. This Lease may be executed by the use of electronic signatures and in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

Section 22.05. So that Lessee retains flexibility in the organization of its internal corporate structure as to the manner in which Lessee may choose to hold its rights under this Lease in its own name or in the name of an entity that controls or is controlled by or is under common control with Lessee, Lessor agrees that this Lease may be sold, assigned, subleased, licensed or transferred by Lessee without approval or consent of Lessor to any one or more of Lessee's Affiliates (as defined in Article 1) or members of its Affiliates. As to other Persons, this Lease may not be sold, assigned, subleased, licensed or transferred without the written consent of Lessor, which consent will not be unreasonably withheld, conditioned or delayed. Reasonable grounds to refuse an assignment or sublease include, without limitation, risks to

The Parties hereto may change their respective addresses by notice in writing given to the other Party.

Section 22.08. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease.

Section 22.09. Capitalized terms used in this Lease shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

Section 22.10. Failure by either Party to complain of any action, non-action or breach of the other Party shall not constitute a waiver of the aggrieved Party's right hereunder. Waiver by a Party of any right arising from any breach of the other Party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future.

Section 22.11. No provision of this Lease shall be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

Section 22.12. This Lease shall create the relationship of landlord and tenant between Lessor and Lessee. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the Parties. Neither Party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision.

Section 22.13. Lessee certifies that, as of the Commencement Date, it is not on the Final Divestment List or the Iran Parent and Subsidiary Guidance List as created by the State Treasurer pursuant to NCGS 147-86.58. In compliance with the requirements of the Iran Divestment Act (Article 6E of Chapter 147 of the North Carolina General Statutes), Lessee shall not utilize, in the performance of the contract, any subcontractor that is identified on the Final Divestment List or the Iran Parent and Subsidiary Guidance List.

Section 22.14. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof to the extent the Parties are in agreement as to the terms and intent of this Lease. Except as specifically provided in this Lease, neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. Without limiting the foregoing, the Parties acknowledge that they are entering into a long-term arrangement in which co-operation between the Parties will be required.

Section 22.15. Each of the Parties represents and warrants to the other that there are no claims for brokerage commissions or similar fees in connection with the execution of this Lease.

Section 22.16. If any term or provision of this Lease, or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this

Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

[Signature Pages attached hereto.]

IN WITNESS WHEREOF, each of the Parties hereto has caused this Lease to be executed on its behalf by its duly authorized officers in duplicate originals effective as of the date first indicated on page one above.

Catawba County

By: _____

Name: _____

Title: Chair of the Catawba County Board of Commissioners

(SEAL)

ATTEST: _____

Name: _____

Title: County Clerk

STATE OF NORTH CAROLINA
COUNTY OF CATAWBA

NOTARY ACKNOWLEDGMENT

I, _____, a Notary Public of said County and State, certify that _____, with whom I am personally acquainted, personally came before me this day and who, being by me duly sworn, says she/he is the County Clerk to the Catawba County Board of Commissioners, a body politic; and that foregoing instrument was signed in it name by the Chair of the Catawba County Board of Commissioners, attested by her/him as Clerk and sealed with its corporate seal, all by order and authority duly given, and that the said instrument is the act and deed of Catawba County.

WITNESS my hand and official seal this the _____ day of _____, 2016.

Notary Public

Print Name: _____

My commission expires: _____

(SEAL)

Approved as to form:

County Attorney Date: _____, 2016

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

Finance Director Date: _____, 2016

[Signature page to Ground Lease]

Apple Inc. (SEAL)

By: _____

Name: _____

Title: _____

STATE OF _____

NOTARY ACKNOWLEDGMENT

COUNTY OF _____

I, _____, a Notary Public in and for the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that he is the _____ of **Apple Inc.**, a California corporation, and that he/she acknowledged the voluntary execution of the foregoing instrument on behalf of the corporation.

WITNESS my hand and official seal this the ___ day of _____, 2016.

(SEAL)

Notary Public

Print Name: _____

My commission expires: _____

[Signature Page to Ground Lease]

EXHIBIT A
DESCRIPTION OF THE PROPERTY

The Catawba County Blackburn Resource Recovery Facility consists of the combination of the following parcels of property in Newton, Catawba County, North Carolina, owned by Catawba County:

<u>Tax Parcel ID</u>	<u>Street Address</u>	<u>Deed References</u>
361801253275	4150 Rocky Ford Road	Book 2872, Page 1442
361801256012	4120 Rocky Ford Road	Book 2872, Page 1442
361801355092	4022 Rocky Ford Road	Book 2232, Page 0729 Book 2053, Page 0632
361803441000	3958 Rocky Ford Road	Book 2053, Page 0634
361803447176	3864 Rocky Ford Road	Book 1586, Page 0799
361804522134	3889 Rocky Ford Road	Book 2786, Page 1003 Book 2676, Page 1675 Book 2232, Page 0729
361804613932	3771 Rocky Ford Road	Book 2676, Page 1675 Book 2637, Page 1355
361804714045	[off of Rocky Ford Road]	Book 2637, Page 1355
361702796313	3380 Wilfong Road	Book 2676, Page 1675 Book 2326, Page 0087 Book 2326, Page 0084
361702784077	3514 Wilfong Road	Book 2590, Page 1748
361803318190	3993 Rocky Ford Road	Book 2222, Page 0257 Book 2215, Page 1309 Book 1883, Page 1085 Book 1865, Page 1233 Book 1865, Page 1231 Book 1862, Page 0966 Book 1860, Page 0177 Book 1853, Page 0793 Book 1853, Page 0791 Book 1261, Page 0110
361803333381	4017 Rocky Ford Road	Book 1912, Page 0645
361803330376	4029 Rocky Ford Road	Book 1912, Page 0643
361701489547	4918 Hickory Lincolnton Hwy	Book 2690, Page 1368

EXHIBIT B
DESCRIPTION OF THE PREMISES

Being a portion of Catawba County Tax Parcel Number 361803441000, located at 3958 Rocky Ford Road, Newton, Catawba County, North Carolina, and being a portion of the property conveyed to Catawba County by the deed recorded in Book 2053 at Page 0634 (as shown on Plat Book 20 at Page 181) of the Catawba County Registry, said portion being described as follows:

To locate the **POINT OF BEGINNING**, commence at the NGS concrete monument "Honey" PID FA4810 (NAD83 N:683901.43 E:1317047.55) and run thence South 79°44'23" West, 2,786.35 feet to a 5/8" rebar found "Tunnel" and continue thence North 58°35'51" West, 239.50 feet to a rebar set on the northerly margin of the 60 foot right-of-way for Rocky Ford Road (SR 2019; as shown on Plat Book 20 at Page 181, Catawba County Registry) and being the **POINT OF BEGINNING** of the Premises herein described; thence from said **POINT OF BEGINNING**, along the northerly right-of-way line of Rocky Ford Road the following three (3) courses and distances: (1) along a curve concave to the northeast having a radius of 1,074.31 feet for an arc length of 324.69 feet (being subtended by a chord which bears North 65°38'18" West 323.45 feet) to an rebar set; (2) continuing along the curve concave to the northeast having a radius of 1074.31 feet for an arc length of 98.70 feet (being subtended by a chord which bears North 54°20'53" West 98.66 feet) to a point; and (3) North 50°20'42" West, 67.79 feet to a rebar set; thence leaving said northerly right-of way line of Rocky Ford Road, North 44°38'40" East, 55.20 feet to a rebar set; thence North 44°38'40" East, 33.09 feet to a rebar set; thence North 72°59'12" East, 204.50 feet to a rebar set; thence North 50°33'39" East, 88.66 feet to a rebar set; thence North 48°05'22" East, 83.76 feet to a rebar set; thence North 48°15'39" East, 109.19 feet to a rebar set; thence South 82°12'51" East, 98.07 feet to a rebar set; thence South 07°47'09" West, 85.41 feet to a rebar set; thence South 08°11'13" West, 261.26 feet to a rebar set; thence South 13°49'35" West, 49.88 feet to a rebar set; thence South 30°05'59" West, 158.19 feet to the **POINT OF BEGINNING**, containing 3.713 acres, more or less, and being labeled and shown as Proposed Lease Lot on a survey by Christopher F. Jordan, PLS L-4956 of McGill Associates dated August 21, 2015, a copy of which is attached.

EXHIBIT C
ANNUAL RENT

The annual rent for the Premises is determined based on \$1,500.00 per acre of the area of the Premises. The Premises consists of 3.713 acres, so the annual rent is initially \$5,569.50.

The annual rent for Year 1 through Year 5 of the term of the Lease shall be \$5,569.50.

Effective as of the beginning of Year 6 of the term of the Lease, and annually thereafter as of the beginning of each successive year of the term of the Lease (including the extension option years, if applicable), the annual rent shall be adjusted by the same percentage as the percentage change in the Consumer Price Index applicable for each respective preceding year of the term of the Lease. However, in no event shall the annual rent be less than \$5,569.50 (unless there is a reduction in the area of the Premises).

For example, the annual rent for Year 6 shall be adjusted based on the percentage change in the Consumer Price Index from the beginning of Year 5 to the beginning of Year 6; and the annual rent for Year 7 shall be adjusted based on the percentage change in the Consumer Price Index from the beginning of Year 6 to the beginning of Year 7; and similarly for each successive year.

The Consumer Price Index shall be the Consumer Price Index for All Urban Consumers (CPI-U) South Region All Items (1982–84=100), as published by the United States Department of Labor – Bureau of Labor Statistics, as available as of the date nearest to the date as of which the adjustment in the annual rent is to be calculated. If such Consumer Price Index is no longer published or reasonably available, an equivalent successor index measuring the cost of living in the Southeast region of the United States shall be designated by Lessor.

This Landfill Gas Sales Contract (the “**Agreement**”) made, entered, and effective on this [6th] day of June, 2016, by and between the **County of Catawba**, a political subdivision of the State of North Carolina (the “**County**”) with a mailing address of PO Box 389, Newton, NC 28658 and **Quadrogen, Inc.**, a California company authorized to do business in the State of North Carolina, with a mailing address of 3530 W. Garry Avenue, Santa Ana, CA 92704-6423 (“**Quadrogen**”).

WITNESSETH:

WHEREAS the County owns and operates a permitted municipal solid waste landfill known as the Blackburn Resource Recovery Facility (the “**Landfill**”), located at 4017 Rocky Ford Road, Newton, NC 28658;

WHEREAS contemporaneously with entering into this Agreement, County has entered into a separate ground lease agreement (the “**Ground Lease Agreement**”) with Apple, Inc. (“**Apple**”) to provide for the construction and operation by Apple of a facility and related infrastructure on a portion of the Landfill (the “**Property**”) to generate electricity using fuel cell technology powered by raw, untreated landfill gas (“**LFG**”) that has undergone a filtration and treatment process to be performed by Quadrogen;

WHEREAS contemporaneously with entering into this Agreement, Quadrogen has entered into a separate clean landfill gas purchase agreement (the “**Gas Purchase Agreement**”) with Apple to provide for the sale by Quadrogen of filtered and treated LFG from the Landfill to Apple;

WHEREAS the County desires to sell a portion of its LFG and Quadrogen, in response to the County’s request for proposals for the sale of LFG issued on September 9, 2015 (the “**RFP**”), desires to purchase LFG, which Quadrogen shall subsequently treat and sell to Apple under the Gas Purchase Agreement for purposes of generating clean, renewable electricity from a fuel cell;

WHEREAS, for the purposes of this Agreement, the “**Facility**” means, collectively: (i) a fuel cell that shall use filtered and treated LFG to generate electricity; (ii) equipment to treat and filter the LFG before it is used by the fuel cell, such as Quadrogen’s Integrated Landfill Clean-up System (the “**Gas Cleaning System**”); (iii) natural gas storage tanks to provide an additional fuel source for the fuel cell; and (iv) related improvements, infrastructure, pads, equipment, pipes, wires, conduits and metering equipment; and

WHEREAS Apple shall own Quadrogen’s Gas Cleaning System used at the Landfill, but Quadrogen shall be responsible for the continuous operation, maintenance and repair of the Gas Cleaning System.

NOW, THEREFORE, in consideration of the mutual terms and conditions contained herein, the parties agree as follows:

SECTION 1 - Purpose

The purpose of this Agreement is to establish the terms by which Quadrogen shall purchase a portion of the County’s LFG from the Landfill.

SECTION 2 – QUADROGEN’S OBLIGATIONS

2.1 Quadrogen is responsible for acquiring and paying for all costs associated with any construction, operational, regulatory, and environmental licenses and permits in its name, which are or may become necessary for the construction, operation, and maintenance of the Gas Cleanup System

at the Landfill, which shall be owned by Apple but operated by Quadrogen pursuant to the Gas Purchase Agreement, and for maintaining compliance with all such licenses and permits at all times throughout the term of this Agreement, including any amendments or extensions thereof. Quadrogen shall keep the County informed of all regulatory and environmental licenses and permits necessary to operate the Gas Cleanup System at the Landfill, and shall be solely responsible for any incremental regulatory or environmental permits, licenses or approvals, including all associated costs, required by the County or other governmental agencies as a result of Quadrogen's activity at the Landfill.

- 2.2 Quadrogen shall use its commercial best efforts to minimize the impact on the County's gas production system that produces gas from decomposition of materials buried at the Landfill (the "**LFGE System**"), its permits, regulatory compliance, or any other activities at the Landfill and be in compliance with all such permits and licenses during the Term.
- 2.3 Quadrogen shall use its commercial best efforts to setup the Gas Cleaning System at the Landfill to correlate with the LFGE System such that nothing Quadrogen connects, adds or attaches to the LFGE system will directly interfere with the County's standard operations as required by State and Federal law. If the setup of the Gas Cleaning System at the Landfill creates an unintentional interference with the LFGE System, County shall have the right to stop the flow of LFG at the POI (as hereinafter defined) in order to protect the LFGE System and ensure that the LFGE System remains in compliance with all permits and licenses for so long as such interference exists. For greater certainty, County shall be obligated to resume the flow of LFG at the POI as soon as practicable upon the resolution of any interference of the Gas Cleaning System with the LFGE System.
- 2.4 Quadrogen shall pay the County for the LFG that passes through the point of interconnection (the "**POI**") between the LFGE System and the Gas Cleaning System, which Quadrogen shall meter to include volume, flow rate, Btu content, pressure and dewpoint temperature at such interconnection. For greater certainty, Quadrogen shall only be required to pay for the LFG that passes the POI, and Quadrogen shall have the right, at its sole discretion, to control and determine the volume of LFG it wishes to accept. Quadrogen shall pay the County for the LFG that passes the POI at the following rates, as applicable:

For year one (1) through year five (5) of this Agreement - at \$2.00 (Two United States Dollars) per mmBtu. Quadrogen shall also pay for the LFG during the start-up and commissioning of Quadrogen's Gas Cleaning System at the same \$2.00 per mmBtu rate.

Starting on the first day of year six (6) of this Agreement until the termination of this Agreement in accordance with its terms, Quadrogen shall pay for the LFG based on a floating annual price. The calculation of the floating annual price for the above noted years shall be based on the following formula:

X = Electricity sales price between County and Duke Energy on the commencement date of this Agreement.

Y = Revised electricity sales price between County and Duke Energy on the fifth (5th) anniversary date of the Commencement Date (as hereinafter defined) and then annually on each successive anniversary of the Commencement Date, as determined for the applicable year.

Price of LFG that Quadrogen shall pay the County (calculated on annual basis):

$$\$2.00 \text{ USD} / \text{ mmBtu} * (1 + ((Y-X)/X))$$

At no time during the Term shall the price of LFG that Quadrogen shall pay the County be less than \$2.00 USD per mmBtu.

Should the County sell or otherwise dispose of all of its LFG and no longer generate electricity for sale to Duke Energy, the above formula shall be replaced and the price in place at the time when electricity sales end shall be increased annually by the CPI (Consumer Price Index for all Urban Consumers CPI-U) for the South Region of the County. For greater certainty, the Consumer Price Index shall be the Consumer Price Index for All Urban Consumers (CPI-U) South Region All Items (1982–84=100), as published by the United States Department of Labor – Bureau of Labor Statistics, as available as of the date nearest to the date as of which the adjustment in the annual rate is to be calculated. If such Consumer Price Index is no longer published or reasonably available, an equivalent successor index measuring the cost of living in the Southeast region of the United States shall be designated by County.

- 2.5 Quadrogen shall be responsible for installing, maintaining, and calibrating (on at least a quarterly basis, starting on the Commencement Date) flow and heat content (i.e., mmBtu) measuring devices at the point of interconnection between the LFGE System and the Gas Cleaning System. Calibration data shall be made available by Quadrogen upon request by the County. Quadrogen shall allow the County to connect to the data feed for such devices so that the County can view and compile such data in real time. The County shall prepare monthly invoices based on this data. Whenever the flow and/or heat content measuring devices of the LFG stream are inoperable, missing flow and/or heat content data shall be substituted using similar data from the previous comparable month. Quadrogen shall pay the County for LFG used within thirty (30) days of receiving an invoice. County has the right to shut off the LFG supply if payment is not received within that thirty (30)-day period.
- 2.6 Quadrogen shall supply the County, within ten (10) business days of receiving such request, any operational data that the County may need in support of demonstrating compliance with any permits Quadrogen holds.
- 2.7 Quadrogen shall be responsible for installing any and all equipment that it deems necessary to determine that the County's LFG is suitable for treatment and ultimate delivery to the fuel cell at the Landfill. This equipment shall be capable of detecting LFG that is unsuitable and shutting off the supply line from the County. Subject to Section 3 of this Agreement, the County shall not be responsible for the characteristics/composition of the LFG delivered and it shall be the responsibility of Quadrogen and its monitoring equipment to determine if the LFG is suitable for use in the Facility. Provided the LFG meets the characteristics/composition requirements of Section 3 of this Agreement, once the LFG passes Quadrogen's monitoring equipment, it shall be considered suitable and no longer owned in any way by the County. Subject to Section 3 of this Agreement, LFG that passes Quadrogen's monitoring equipment shall become the property of Quadrogen and the County shall bear no responsibility should it be determined at any point that unsuitable LFG has fouled or otherwise impacted the performance of the fuel cell and/or Quadrogen's Gas Cleaning System equipment.

SECTION 3 – COUNTY'S OBLIGATIONS

- 3.1 For the duration of this Agreement, the County shall provide a connection point for the Gas Cleaning System from the LFGE System for the delivery of LFG.

- 3.2 County shall provide LFG at the POI. The LFG shall be conveyed to the Gas Cleaning System via a gas pipeline installed by Apple and conveyance equipment (e.g., blower) provided by Apple and/or Quadrogen.
- 3.3 County shall provide LFG with a minimum available flow rate of at least four hundred seventy five (475) standard cubic feet per minute (“SCFM”) for the duration of this Agreement. Quadrogen reserves the exclusive right to control the amount of gas actually used by the Gas Cleaning System, provided that the instantaneous flow rate does not exceed five hundred (500) SCFM. Quadrogen’s actual LFG flow rates are expected to regularly vary from zero SCFM (no flow) to the maximum continuous flow rate of four hundred seventy five (475) SCFM. The parties understand that the County’s LFG supply may be interrupted from time to time due to scheduled maintenance activities and/or unplanned outages due to power outages or force majeure incidents. The County shall provide Quadrogen with as much notice as possible for scheduled down times and for both scheduled and unscheduled outages and make reasonable efforts to restore the supply of LFG as soon as possible.
- 3.4 Subject to Section 3.5 and to County obtaining all required permits and authorizations, County, at its own cost, shall take and accept all effluent (waste liquid produced by the Gas Cleaning System) (the “Effluent”) for disposal or permitted use thereof by County. Quadrogen shall have the right to deliver the Effluent to mutually agreeable location(s) on the Landfill (for greater certainty, County and Quadrogen agree that delivery may be made by piping the Effluent to County’s existing storage tanks on the Landfill that are part of the LFGE System) at Quadrogen’s sole cost and County shall be deemed to have taken control of the Effluent at such location(s).
- 3.5 County’s obligation to take and accept the Effluent is subject to the chemical composition of the Effluent being similar to or cleaner than the composition of the liquid or waste water produced by the LFGE System (the “County’s Condensate”) on the Commencement Date. If the Effluent has altered chemical composition that is different from (but not cleaner than) the County’s Condensate, County will only be obligated to accept such Effluent if combining such Effluent with the County’s Condensate will not create any hazards or interfere with the performance or operation of the LFGE System and is permissible in accordance with all local, state and federal laws and regulations. Quadrogen agrees it shall be responsible for any additional costs incurred by County associated with handling and processing (including disposing of, if applicable) any Effluent with altered chemical composition that County rejects because it does not meet the requirements in this Section 3.5.

SECTION 4 – Notices

All notices, signed agreements, payments and communications under this Agreement shall be given in writing at the address shown below until written notice is provided by either party to the other of a change of such address, and may be delivered or, except in the case of payments, faxed (with receipt confirmed) or emails. All notices shall be effective upon receipt.

Quadrogen, Inc.

CT Corporation System
 c/o Quadrogen, Inc.
 150 Fayetteville Street, Box 1011
 Raleigh, NC, USA 27601
 Attention: Alakh Prasad
 Fax: (604) 221-3001

Catawba County

100 A Southwest Blvd.
 Newton, NC, USA
 28658
 Attention: Barry B. Edwards, P.E.
 Fax: (828) 465-8962

SECTION 5 – Indemnification

Quadrogen shall indemnify, defend and hold harmless County from and against any loss, liability, claim, damage, or expense directly arising out of any breach of any representation, warranty or covenant made by Quadrogen, specifically including any damage caused to County by Quadrogen's connecting to the County's LFGE System, except to the extent such damage is based on or results directly out of any breach by County of its obligations under this Agreement or the negligent or willful acts or omissions of County, its agents, subcontractors, directors, officers and employees. Further, Quadrogen shall, to the greatest extent authorized by law, defend, indemnify and hold harmless County from all claims based on injury to persons or damage to third party property, and all resulting damages, losses, and expenses including, but not limited to, reasonable attorneys' fees and other costs of defense related thereto, to the extent based on or resulting from the installation, operation, maintenance or repair of the Facility by Quadrogen and/or its contractors and/or subcontractors, including without limitation (i) the negligence or willful misconduct by Quadrogen and/or its contractors and/or subcontractors in connection with the construction, repair, maintenance, replacement or use of the Facility, (ii) any violation by Quadrogen and/or its contractors and/or subcontractors of any applicable law relating to the Facility or the use of the Facility, or (iii) the failure by Quadrogen and/or its contractors and/or subcontractors to keep the Facility in a safe operating condition.

SECTION 6 – Insurance

Quadrogen agrees to maintain in full force and effect for the entire Term insurance in such amounts as shown below. County shall continuously be shown as an additional insured on the Commercial General Liability insurance required below. Prior to the beginning of the Term and annually thereafter, Quadrogen shall deliver to County certificates of insurance, including additional insured endorsements, in a form reasonably acceptable to County, which show that the insurance set forth herein are in effect. In the event of cancellation or non-renewal of any insurance during the Term, Quadrogen shall promptly replace the effected insurance so that no lapse in coverage occurs. If there is a lapse in insurance coverage, County has the right to immediately stop selling LFG to Quadrogen.

- a. Commercial General Liability Insurance. Quadrogen shall maintain in full force and effect during the Term, and at its own expense, commercial general liability insurance for bodily injury, property damage, personal injury, advertising injury, contractual liability assumed under the provisions of this Agreement, and products/completed operations liability arising out of, or related to, the use of the Facility, such insurance to provide liability limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, combined single limit. County shall be named as additional insured on said policy to the extent of liabilities falling within Quadrogen's indemnity obligations under the terms of this Agreement.
- b. Workers' Compensation Insurance. In the event that Quadrogen has employees for whom workers' compensation insurance is required to be carried under North Carolina law, Quadrogen shall maintain Workers' Compensation and Employer's Liability Insurance covering all of its employees to be engaged in the work related to the use of the Facility, providing the required statutory benefits under North Carolina Workers' Compensation Law and Employer's Liability Insurance providing limits at least in the amount of One Million Dollars (\$1,000,000) applicable to claims due to

bodily injury by accident or disease. In addition, Quadrogen shall cause its contractor and any subcontractors using the Facility and any operator of the Facility to maintain Workers' Compensation and Employer's Liability Insurance in connection with its activities at the Facility as required herein and by North Carolina law.

- c. Business Automobile Liability Insurance. Quadrogen shall maintain in full force and effect during the Term, and at its own expense, business automobile liability insurance with liability limits of not less than One Million Dollars (\$1,000,000) combined single limit, covering owned, non-owned and leased vehicles used by Quadrogen with respect to the use of the Facility.

SECTION 7 – Term

The initial term of this Agreement (the “**Term**”, which shall include any extension thereof) shall be for sixteen (16) years, commencing on the date of this Agreement (the “**Commencement Date**”). Provided that Quadrogen is not in default beyond applicable notice and cure periods under this Agreement at the time the option to extend this Agreement is exercised, Quadrogen shall have the right to extend the Term for an additional period of five (5) years by giving County notice of Quadrogen's decision to so extend the Term at least six (6) months prior to the expiration of the initial Term.

SECTION 8 – Termination

- 8.1 Either party may terminate this Agreement upon a default by the other party of such party's obligations under this Agreement, which default is not cured within thirty (30) days of such party receiving written notice of such default.
- 8.2 If either Apple or County terminates the Ground Lease Agreement, this Agreement shall automatically terminate on the same date as the Ground Lease Agreement is terminated.
- 8.3 If the Gas Purchase Agreement is terminated by either Apple or Quadrogen or is not otherwise extended by Apple in accordance with the terms of the Gas Purchase Agreement, and if Apple elects not to effect the assignment of this Agreement to Apple as a result of such termination (as contemplated under the terms of the Rider (as hereinafter defined)), then this Agreement shall automatically terminate on the same date as the Gas Purchase Agreement is terminated.

SECTION 9 – Miscellaneous

- 9.1 **ASSIGNMENT:** This Agreement or any right hereunder, shall not be assigned by either party, nor shall any duty hereunder be delegated by either party, without the express written consent of the other party. Any attempt at assignment or delegation without such consent shall be void to the full extent permitted by law.
- 9.2 **CHOICE OF LAW:** This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina. Venue for any adversarial proceeding shall be set in Catawba County.
- 9.3 **COMPLIANCE WITH LAWS:** Quadrogen shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

9.4 **AMENDMENT:** This Agreement may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the County and Quadrogen.

9.5 **E-VERIFY:** Quadrogen shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if Quadrogen utilizes a subcontractor, Quadrogen shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

9.6 **IRAN DIVESTMENT ACT CERTIFICATION:** Quadrogen certifies that, as of the date listed below, it is not on the Final Divestment List or the Iran Parent and Subsidiary Guidance List as created by the State Treasurer pursuant to NCGS 147-86.58. In compliance with the requirements of the Iran Divestment Act (Article 6E of Chapter 147 of the North Carolina General Statutes), Quadrogen shall not utilize, in the performance of the contract, any subcontractor that is identified on the Final Divestment List or the Iran Parent and Subsidiary Guidance List.

SECTION 10 – Rider Attached

See the attached rider (the “**Rider**”) regarding certain provisions that have been agreed to for the direct benefit of Apple, and if there is any conflict between the provisions of this Agreement and provisions set forth in the Rider, the provisions set forth in the Rider shall govern.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year above first written.

CATAWBA COUNTY:

By: _____
C. Randall Isenhower
Board of Commissioners, Chair

Attest:

By: _____
Barbara Morris, Clerk to the Board

Seal

QUADROGEN, INC:

By: _____
Alakh Prasad
President and CEO

Attest:

By: _____

Seal

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

Date: _____

Bob Miracle, Finance Director

APPROVED AS TO FORM:

Date: _____

Debra N. Bechtel, County Attorney

Rider to the Sale of Landfill Gas Agreement

PROVISIONS FOR THE BENEFIT OF APPLE: The terms of this Rider shall be deemed to be a part of and incorporated into the Agreement to which it is attached as if fully set forth therein, and the capitalized terms used in this Rider shall have the same meaning as set forth in the Agreement, unless specifically defined herein.

Apple and County have entered into a separate Ground Lease Agreement relating to a portion of County's Property, on which Apple will install the Facility as described in the Agreement, including the Gas Cleaning System to be used by Quadrogen to treat the LFG purchased by Quadrogen from County under the Agreement. Apple and Quadrogen have entered into a separate Gas Purchase Agreement pursuant to which Apple will purchase from Quadrogen treated LFG which will be used to power Apple's fuel cells and produce electricity. Because of Apple's contractual relationships with County and Quadrogen under such separate agreements and because of Apple's own investment in the Facility and related equipment, County and Quadrogen acknowledge and agree that Apple is a third-party beneficiary of the Agreement and is entitled to the benefit of certain agreements by County and Quadrogen and the rights associated therewith, as follows:

- a. A copy of any notice, including without limitation any notice of default, given in connection with the Agreement by County to Quadrogen or by Quadrogen to County, shall be simultaneously given to Apple in accordance with the formalities of the Agreement at the following address:

Apple Inc.
1 Infinite Loop, MS 119-RE
Cupertino, CA 95014
Attention: Real Estate Department

With a copy to:

Apple Inc.
1 Infinite Loop, MS 4-DLAW
Cupertino, CA 95014
Attention: Real Estate Counsel

- b. County and Quadrogen will not amend the Agreement, assign the Agreement or any rights hereunder, delegate any duty hereunder, or exercise any right to terminate the Agreement without the prior written consent of Apple (except that the consent of Apple shall not be required if the Agreement is terminated by County following a default by Quadrogen that is not cured within the applicable cure period after notice thereof is given to Quadrogen and Apple). If Quadrogen wishes to terminate the Agreement following a default by County that is not cured within the applicable cure period after notice thereof is given to County and to Apple, then either: (i) Apple must consent to such termination; or (ii) if Apple does not consent, then Quadrogen shall assign all of its rights and obligations under the Agreement to Apple and Apple shall accept such assignment unconditionally (provided that the acceptance of such assignment by Apple shall not be deemed to be an assumption of any liability or obligation of Quadrogen that arose prior to the effective date of such assignment).

- c. County agrees that: (i) Quadrogen may assign the Agreement to Apple without requiring the prior approval of County, (ii) Quadrogen may assign the Agreement to a third party designated by Apple, but subject to the prior approval of such third party by County, not to be unreasonably withheld, conditioned or delayed, (iii) if Apple succeeds to the interests of Quadrogen under the Agreement by any legal means, County will recognize Apple as the successor in interest without requiring the prior approval of County, and (iv) if the Agreement is assigned to Apple or if Apple otherwise becomes the successor in interest to Quadrogen, then Apple may thereafter assign the Agreement to a third party designated by Apple, but subject to the County's prior approval of such third party, not to be unreasonably withheld, conditioned or delayed. The acceptance by Apple or its designee of any assignment of this Agreement from Quadrogen shall not be deemed to be an assumption of any liability or obligation of Quadrogen that arose prior to the effective date of such assignment.
- d. The right of Quadrogen to exercise its option to extend the term of the Agreement is subject to and conditioned upon: (i) County and Apple extending the term of their Ground Lease Agreement and (ii) Quadrogen and Apple extending the term of their Gas Purchase Agreement, such that the term of all three agreements are equal and co-terminus.
- e. Quadrogen will provide to Apple a copy of any notice of default under the Agreement received by Quadrogen from County within three (3) business days after receipt thereof, together with a description by Quadrogen of the steps, if any, that Quadrogen intends to take to address any such default.
- f. County and Quadrogen agree that Apple shall be entitled, but not required, to cure any default by Quadrogen under the Agreement if Apple elects to do so in Apple's discretion, and County agrees to accept the performance by Apple of the cure of any such default.
- g. County agrees that Apple may cure any default by Quadrogen within the greater of: (i) the actual cure period provided under the Agreement or in the notice of default provided by County, or (ii) twenty one (21) days after Apple's receipt of such notice of default from County. If such default cannot be cured by the payment of money and Apple gives County notice that Apple intends to undertake the cure of such default and begins to undertake the steps necessary to cure such default within the time period specified in the previous sentence, and if Apple diligently continues to undertake the steps necessary to cure such default, such time period will be extended for as long as is reasonably necessary for Apple to complete the cure of such default.
- h. If Quadrogen defaults under the Agreement and the default is not cured by Quadrogen (as opposed to Apple) within the applicable notice and cure period, then in addition to all rights and remedies available to Apple against Quadrogen as a result of such default Apple shall have the right to pursue any one or more of the following: (i) upon the request of Apple, Quadrogen agrees to assign to Apple (which shall not require any prior consent by County) or to Apple's designee (which shall be subject to County's prior consent, not to be unreasonably withheld, conditioned or delayed) all of Quadrogen's rights under the Agreement (provided that the acceptance of such assignment by Apple shall not be deemed to be an assumption of any liability or obligation of Quadrogen that arose prior to the effective date of the assignment), (ii) Apple shall have the right to recover from Quadrogen any costs incurred by Apple in curing such default under the Agreement by an offset against any amounts that may be or become due by Apple to Quadrogen under the Gas Purchase Agreement, and (iii) Apple shall have the right to treat such default under the Agreement as a default by Quadrogen under the Gas Purchase Agreement and pursue such rights and remedies, including termination of the Gas Purchase Agreement, as Apple may have under the Gas Purchase Agreement in accordance with its terms. If the Gas Purchase

Agreement terminates for any reason, Apple shall have the right to require Quadrogen to and Quadrogen agrees to assign to Apple (which shall not require any prior consent by County) or to Apple's designee (which shall be subject to County's prior consent, not to be unreasonably withheld, conditioned or delayed) all of Quadrogen's rights under the Agreement (provided that the acceptance of such assignment by Apple shall not be deemed to be an assumption of any liability or obligation of Quadrogen that arose prior to the effective date of such assignment). Nothing herein shall limit any other rights or remedies that Apple may have under the Gas Purchase Agreement.

- i. If the Agreement is terminated by County or if the Agreement is terminated or rejected in any bankruptcy or insolvency proceeding, then in lieu of Apple succeeding directly to the interest of Quadrogen by assignment or by other legal means, County agrees to enter into a new agreement directly with Apple on the same terms as the Agreement and for the remaining term of the Agreement; provided, however, that County shall not be obligated to enter into any such new agreement with Apple unless: (i) all events of default under the Agreement have been cured or Apple agrees to cure them, and (ii) any such request by Apple for a new agreement must be made by Apple to County within sixty (60) days after the date that the Agreement has been terminated by County or terminated or rejected in any bankruptcy or insolvency proceeding.
- j. Apple may take any and all actions deemed advisable by Apple in order to exercise its rights under the Agreement, including communicating and or entering into agreements directly with County (with or without Quadrogen's knowledge and participation) regarding the subject matter of the Agreement.
- k. Within fifteen (15) days after a request by Apple, each of County and Quadrogen agree to provide Apple with a signed statement indicating, to the best of their knowledge, whether or not any defaults exist under the Agreement and information or confirmation about such other matters concerning the status of the Agreement as Apple may reasonably request.

County and Quadrogen have executed this Rider to acknowledge their agreement to the terms of this Rider.

Catawba County

By: _____

Name: _____

Title: Chair of the Catawba County Board of Commissioners

(SEAL)

ATTEST: _____

Name: _____

Title: County Clerk

Quadrogen, Inc.

By: _____

Name: _____

Title: _____

Apple Inc. has joined in the execution of this Rider as part of the Agreement for the purpose of acknowledging its rights as a third-party beneficiary of the provisions set forth in this Rider and acknowledging that it does not have any rights or obligations under the Agreement except as provided in this Rider.

Apple, Inc.

By: _____

Name: _____

Title: _____