

Regular Session, May 5, 2014 9:30 a.m.
Catawba County Board of Commissioners

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The Catawba County Board of Commissioners met in regular session on Monday, May 5, 2014 at 9:30 a.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

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

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

1. Chair Katherine W. Barnes called the meeting to order at 9:30 a.m.
2. Commissioner Barbara G. Beatty led the Pledge of Allegiance to the Flag.
3. Commissioner Lynn M. Lail offered the invocation.
4. Commissioner Beatty made a motion to approve the minutes from the Board's Regular Meeting of April 21, 2014. The motion carried unanimously.

5. Recognition of Special Guests: Chair Barnes recognized County Commissioner Candidates Sherry Butler and Franklin Lawson and indicated that both she and Randy Isenhower were incumbents in the upcoming election.
6. Public Comments for Items Not on the Agenda: None.
7. Presentations:
 - a. All the Board members joined Mr. James Burke, Assistant Director of the Fiscal Management Section, State and Local Government Finance Division, Office of the State Treasurer, and Paula Hodges, member of the North Carolina Association of Certified Public Accountants Governmental Accounting and Auditing Subcommittee, at the podium to recognize the County's Finance Department for winning the State Treasurer's Governmental Award for Excellence in Accounting and Financial Management for Fiscal Year 2012-2013. The award is presented annually to units of local government that have excelled in implementing fiscally responsible procedures during the fiscal year. Finance Director Rodney Miller recognized the exemplary work of his staff and thanked Mr. Burke and Ms. Hodges for the award.
 - b. Commissioner Beatty presented Emergency Medical Services Manager Sylvia Fisher with a proclamation declaring May 18-24 as Emergency Medical Services Week to recognize the value and accomplishments of Emergency Medical Services providers. Ms. Fisher thanked the Board for its support.
8. Public Hearing:

Assistant Director of Emergency Services Mark Pettit came forward and requested the Board hold a public hearing to receive citizen comments and approve a resolution changing the boundary lines between the Bandys Fire Protection Service District and Maiden Rural Fire Protection Service District.

On May 20, 2013, pursuant to North Carolina General Statute (NCGS) 153A-301, the Board created fire protection service districts. NCGS 153A-304.3 establishes the requirements for the Board to relocate boundary lines between adjoining county service districts. A property owner in Maiden requested the Board consider transferring his property from the Bandys Fire Protection Service District to the Maiden Rural Fire Protection Service District. The property has a fire insurance rating of "Unrated". When the property is transferred to the Maiden Rural Fire Protection Service District, the fire insurance rating will be a "9", which will reduce annual insurance costs for the property owner. While staff was researching this request, it became evident that other parcels in the same area would benefit from a boundary line change. Additionally, the chiefs of each fire department identified a separate area that would benefit from similar changes.

The boundary line changes impact a total of 66 parcels in Maiden and Newton. The chiefs of both fire departments were in agreement with the proposed boundary lines. A report containing the required information was on file with the Clerk to the Board of Commissioners since April 17, 2014, and any citizen wishing to review the report could do so at the Clerk's Office at the Government Center at 100-A Southwest Boulevard in Newton.

Mr. Pettit indicated they had been able to contact 48 of the 66 property owners by phone and had no negative response to the change. In response to an inquiry by Chair Barnes, Mr. Pettit indicated that the property owners' insurance companies should be aware of the change and make the necessary adjustments in premiums.

Chair Barnes opened the public hearing, noting it had been duly advertised, and one person, Ellis Smith, came forward to speak in favor of changing the boundary lines. Chair Barnes then closed the public hearing. Commissioner Beatty made a motion to approve the change in boundary lines and adopt the necessary resolution. The motion carried unanimously.

The following resolution applies:

Resolution No. 2014-

Resolution to Relocate the Boundary Line between Adjoining County Service Districts

WHEREAS, NCGS 153A-304.3 authorizes the board of county commissioners to relocate the boundary lines between adjoining county service districts if the districts were established for substantially similar purposes; and

WHEREAS, the service districts were established for similar purposes, specifically fire protection; and

WHEREAS, the boundary lines may be changed in any manner the board deems appropriate; and,

WHEREAS, the fire department servicing each affected county service district is in agreement with the relocated boundary lines; and

WHEREAS, a report containing a map of the service districts and the adjacent territory showing the current and proposed boundaries of the districts, a statement indicating that the proposed boundary relocation meets the requirements of the statute, a plan for providing service to the area affected by the relocation of district boundaries, and the effect that the changes in the amount of taxable property will have on the ability of the district to provide services or to any service debt has been in file in the office of the clerk of the board for at least two weeks before the date of today's public hearing,

NOW, THEREFORE, BE IT RESOLVED by the Catawba County Board of Commissioners:

The boundary lines for Bandys Fire Protection Service District and Maiden Rural Fire Protection Service District are hereby relocated so that Parcel Identification Numbers 365801267361, 365805284043, 365809066411, 365809272300, 365809260863, 365809167369, 365809158877, 365809059626, 365809156399, 365801372063, 365809254423, 365801354716, 365801353923, 365801356398, 365801259187, 365801350239, 365801461411 which were in Bandys Fire Protection Service District, are now a part of Maiden Rural Fire Protection Service District and Parcel Identification Numbers 365604743823, 365604747866, 365604842854, 365602857418, 365604941628, 365602955108, 365604948550, 366603040680, 366603040841, 366603041872, 365604948802, 365604947984, 365602957065, 365602956262, 365602957345, 365602958229, 365602956419, 365602955676, 365602957588, 366601050340, 366601052386, 366601054384, 366601053038, 366603141737, 365602960072, 365602951999, 365602964014, 365602966250, 365602956924, 365602957911, 365602958803, 366601050820, 366601053968, 366601066222, 366601160140, 366601061043, 365602968159, 365602962116, 365602963257, 365602964334, 365602965411, 365602965557, 365602966757, 365602968652, 366601065877, 366601070160, 366601070243, 366601071277, 366601073321 which were in Maiden Rural Fire Protection Service District are now a part of Bandys Fire Protection Service District.

Adopted this 5th day of May, 2014.

9. Appointments:
Chair Barnes recommended the reappointment of Charles Preston for a third term on the Catawba Valley Community College (CVCC) Board of Trustees. This term will expire June 30, 2018. Chair Barnes also recommended the reappointment of Ellie Bradshaw and Garrett Hinshaw for third terms on the Economic Development Corporation Board of Directors. These terms will expire June 30, 2017. These recommendations came in the form of a motion which carried unanimously.
10. Departmental Reports:
 - a. Juvenile Crime Prevention Council:
 1. JCPC Staff Member Debbie Bradley came forward to present a request for the Board to approve the FY 2015 Annual Plan for the Catawba County Juvenile Crime Prevention Council

(JCPC). The Plan included 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 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 the programs. Membership is determined mostly by the North Carolina General Statute establishing the JCPC. Representatives on the Council are those involved with youth.

Every year there is a process the JCPC must follow 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 the 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 the risk factors, and review of and approval of the 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 approved funding for next year and the services provided are as follows: Conflict Resolution Center: \$53,599, for mediation and interpersonal skill building; Family Net: \$152,591, for psychological assessments, substance abuse, sex offender treatment and counseling; Parenting Education: \$44,603, for parenting/family skill building; Project Challenge: \$64,434, for restitution/community service, and JCPC Administration: \$13,719. The State has advised local JCPCs to plan for the same funding as received in FY 2014, which is \$328,946. The Plan does not require any County funding.

Board members expressed their surprise and concern about the decrease in age of at-risk youth and Ms. Bradley indicated that training was scheduled to explore the reasons for this change. Commissioner Lail made a motion to approve the FY 2015 Annual Plan for the Catawba County Juvenile Crime Prevention Council. The motion carried unanimously.

2. JCPC Staff Member Debbie Bradley came forward to present a request for the Board to approve increased funding to the FY 2014 Funding Plan for the Catawba County Juvenile Crime Prevention Council. On April 4, 2014, the Department of Public Safety, Adult Corrections/Juvenile Justice Area Office notified current JCPC programs that additional funds were available. Programs were given until April 11, 2014, to apply for funds. During the April JCPC meeting, the membership was advised of the applications. Requirements for receiving the approved funds included that it should be used to enhance service to youth; a 30% match was required (these funds generally come from in-kind funding, fundraising efforts and Medicaid funds); the program must have a budget revision approved and signed by May 7; and the Board of Commissioners must approve the revised funding plan, and have it returned to the Area Office in time to distribute funding. (NOTE: Since the fiscal year ends June 30, by policy, this means by May 31.)

Four Catawba JCPC programs applied for funding. On April 25, 2014, JCPC was notified that each of the four programs will receive all or some of the requested dollars. Programs receiving additional funds and the amounts are: Conflict Resolution Center, \$1,172; Family Net, \$2,325; Parenting Network, \$500 and Project Challenge, \$1,820.

The funds will be used for: Conflict Resolution Center: 2 NSJJ registration packages (for national juvenile justice training to be held in Greensboro); a Family Net Online Certification Course for Juvenile Sex Offender treatment providers for three staff; Parenting Education: two bookshelves, program supplies and needed materials; and Project Challenge Catawba: cost overruns due to employee health insurance cost for staff, \$725; fuel for transportation, \$400; vehicle service & repair maintenance cost, \$695. Commissioner Dan Hunsucker made a motion to approve increased funding to the FY 2014 Funding Plan for the Catawba County Juvenile Crime Prevention Council. The motion carried unanimously.

b. Utilities and Engineering:

Assistant Director of Utilities and Engineering Jack Chandler presented a request for the Board to approve a lease with Blue Ridge Biofuels of Asheville, North Carolina for the Biodiesel Production Facility and authorize Chair Barnes to execute the lease and documents associated with the existing lease with Appalachian State University (ASU). In an effort to improve the economic benefit (including increased fuel production) of the Biodiesel Research, Development and Production Facility, and in keeping with the fundamental tenets of the EcoComplex to facilitate the incubation of a new industry in Catawba County, staff developed a Request for Qualifications/Request for Proposals (RFQ/RFP) in conjunction with staff from Appalachian State University for the privatization of the Facility. The RFQ/RFP was advertised on February 3, 2014, and Statements of Qualification/Proposals were received on February 28, 2014. The following companies submitted Statements of Qualification/Proposals: Blue Ridge Biofuels, Asheville, NC and Foothills Bio-Energies, Lenoir, NC

County staff, along with staff from ASU, reviewed the proposals and jointly selected the proposal from Blue Ridge Biofuels as most closely matching the County's vision to privatize the operations of the Facility while maintaining an enhanced university presence. County staff has negotiated a lease agreement with Blue Ridge Biofuels (BRB) that includes the following terms and conditions:

- Lease payments will be \$500 per month for the first 24 months of the Agreement. Following the initial 24 months, the monthly lease payment will be adjusted annually by the Consumer Price Index, not to exceed 3%. Additional rent throughout the term of the Agreement includes BRB selling fuel to the County at a discounted rate.
- BRB commits to producing biodiesel fuel that meets American Society for Testing and Materials standards within one year from the date of contract signing.
- BRB agrees to provide a minimum 1,750 gallons per week of a B10 biodiesel fuel (10% biodiesel and 90% petroleum diesel), for use in the County's landfill equipment.
- The cost of the fuel will be 90% of the price for petroleum diesel (plus \$0.02 per gallon administrative cost and minus State taxes of \$0.3775 per gallon) plus 10% of the discounted price for Catawba County as posted by the North Carolina Department of Administration (discounted at \$0.20 per gallon). The petroleum diesel must be purchased from the entity offering BRB the best price.
- BRB is willing to offer the same discounts to other County fleets and all three school systems (Catawba County Schools, Newton-Conover City Schools and Hickory Public Schools) if the demand arises.
- BRB will own and be able to market any product produced at the Facility and not consumed by the County.
- BRB agrees to manage delivery of biodiesel blends to a specified delivery point. BRB agrees to deliver fuel to the County in 7,000 gallon shipments as frequently as necessary.
- BRB agrees to supply as much fuel as the County is interested in purchasing for the County's or school systems' use.
- BRB will retain all rights to any subsidies directly produced or generated by the production of the B100 biodiesel fuel including, but not limited to, federal renewal biodiesel tax credits, state biodiesel tax credits, and USDA Bioenergy Program payments.
- BRB shall provide an annual performance bond to the County in the amount of \$30,000 for the guaranteed supply of fuel under the terms and conditions of the lease.
- BRB agrees to lease a portion of the Facility to Appalachian State University for research purposes.
- County will provide internet availability to the Facility because the County's Broadband Mesh Network at the landfill relies on the internet connection in the Facility.
- County will provide lawn care, sidewalk and paved area maintenance, fire extinguisher servicing, pest control, solid waste disposal and recycling.
- County will facilitate, at no financial responsibility, BRB's use of waste heat from the County's landfill gas to energy system.
- County will assist with the relocation of ASU's existing equipment within the Facility.

- In order to insure that adequate environmental safeguards are in place, the County will construct an outdoor retention dike for BRB's outdoor bulk storage tanks.
- BRB is responsible for full maintenance of the Biodiesel Facility including: paint, flooring, fixtures, HVAC, plumbing, electrical, and lighting.
- BRB agrees to permit the County's visitors to tour the Facility.
- Throughout the term of the lease, the County retains the right to use the lobby, meeting room, back office, bathrooms and parking.
- BRB is responsible for all costs and fees associated with any changes to any of County's current permits, licenses or other approvals as a result of BRB's activities.
- BRB will cooperate with the County, and any other research institutions the County has an association with, and will not interfere with current and future development of the EcoComplex.
- BRB will provide quarterly reports, or more frequently if required or requested, which are necessary to maintain the compliance with any agreement, permit, grant or any other applicable law, rule or regulation as well as statistics related to production amounts, chemicals used, etc.

The privatization of the Biodiesel Production Operations provides the County with an annualized savings of \$52,272. The existing lease with ASU will be terminated by mutual agreement or in accordance with the terms of the lease. Commissioner Lail made a motion to approve a lease with Blue Ridge Biofuels of Asheville, North Carolina for the Biodiesel Production Facility and authorize Chair Barnes to execute the lease and documents associated with the existing lease with Appalachian State University (ASU). The motion carried unanimously. The following lease applies:

**STATE OF NORTH CAROLINA
COUNTY OF CATAWBA**

LEASE AGREEMENT

THIS AGREEMENT OF LEASE made this _____ day of _____, 2014, between Catawba County, a political subdivision of the State of North Carolina, (hereinafter referred to as "Lessor"), and Blue Ridge Biofuels, LLC, a limited liability corporation, (hereinafter referred to as "Lessee").

WITNESSETH, that in consideration of the rent, fuel discounts and covenants contained herein on the part of Lessee to be paid and performed, Lessor does hereby demise and lease unto Lessee a portion of Parcel Identification Number 361803318190, located at 3961 Rocky Ford Road, Newton, North Carolina hereinafter called the "Biodiesel Facility", a building plus an outdoor space for production-related activity and the adjoining parking lot. The leased premises are depicted in Exhibit A, attached and incorporated herein by reference.

TO HAVE AND TO HOLD for a term of twenty (20) years (pursuant to NCGS 62-160A-272(c)) commencing on the 1st day of January, 2015 and ending on the 31st day of December, 2035.

This Lease is made upon the following terms and conditions:

1. Lessee shall pay to Lessor the sum of Five Hundred Dollars (\$ 500.00) per month for the first twenty-four months (24) of the Agreement. Additional rent due to Lessor throughout the entire term of the Agreement includes Lessee selling Lessor fuel at a discounted rate. Specific details of the discounted fuel are contained in paragraph 2 of this Lease. All rental payments shall be payable by Lessee to Lessor by the first of each month during the term of this Agreement. Following the initial 24 months, the monthly lease payment will be adjusted annually. The fee change shall be

based on the one year change in the Consumer Price Index (CPI), All Urban Consumers, U.S. City Average, All items, as published for the month of December of the preceding year. The amount of the CPI adjustment shall not exceed 3%. Lessor and his suppliers/customers shall have the non-exclusive right of egress and ingress from Rocky Ford Road, a public right of way, seven (7) days a week twenty-four (24) hours a day.

2. Lessee's provision of blended Biodiesel (B10) as a portion of the rent is as follows:

(a) Lessee commits to producing ASTM biodiesel fuel within one year from the date of contract signing.

(b) Lessee agrees to provide a minimum 1,750 gallons per week of a B10 blend of biodiesel fuel, for use in the Lessor's landfill equipment which would meet all active fleet equipment warranties at the Facility at an agreed price per gallon ("the Price").

(c) Lessee agrees to provide a minimum of 175 gallons per week of B100 biodiesel to Lessor at the Biodiesel Research, Development, and Production Facility ("the Facility") at a price per gallon equal to a twenty cent discount to ULSD#2 Tank Wagon prices for Catawba County as posted by the NC Department of Administration Division of Purchases and Contract. Pricing will be based on the weekly price posted for the week the delivery takes place ("the B100 Price"). Lessee is willing to offer similar discounts to other Lessor fleets and all three school systems (Catawba County Schools, Newton-Conover City Schools and Hickory City Schools) if the demand arises. Lessee will own and be able to market any additional product produced at this Facility and not consumed by Lessor.

(d) Lessee will be the signatory to any agreements for the sale of biodiesel and accepting responsibility for failing to satisfy requirements under those agreements.

(e) Lessee agrees to purchase, on average, 1,575 gallons per week of petroleum diesel at the rack price of Biltmore Oil Company in Asheville, NC ("the Diesel Price") or a similar regional fuel supplier plus \$0.02/gallon to cover administrative costs. The fuel must be purchased from the entity offering Lessee the best price.

(f) Lessee agrees to blend the two fuels above to produce, on average, 1,750 galls per week of B10. The price for this fuel is a composite of 10% of the biodiesel B100 Price per gallon and 90% of the petroleum Diesel Price per gallon plus any delivery costs.

(g) Lessee agrees to manage the delivering of the biodiesel blends to a specified delivery point. Lessee agrees to make delivery in 7,000 gallon allotments to Lessor as frequently as necessary. Lessee agrees to supply as much fuel as Lessor is interested in purchasing for Lessor's or school systems' use.

(h) Lessor agrees to provide a storage tank of no less than 10,000 gallons for the storage of the B10 biodiesel fuel blend.

(i) Lessor will remit payment to Lessee for the B10 biodiesel fuel within 30 days of receipt of invoice from Lessee.

(j) Lessee will retain all rights to any subsidies directly produced or generated by the production of the B100 biodiesel fuel including, but not limited to, EPA RFS RINs, federal biodiesel tax credits, state biodiesel tax credits, and USDA Bioenergy Program payments.

(k) Lessee shall provide an annual performance bond to Lessor in the amount of \$30,000 for the guaranteed supply of fuel as outlined in this Paragraph 2.

3. Lessee shall indemnify and save Lessor, including its elected officials and employees, harmless from and against any liability for personal injury or property damage arising from Lessee's use or occupation of the Biodiesel Facility, including specifically liability for any personal injury or

property damage suffered or allegedly suffered by employees, members, guests, business invitees or social invitees of Lessee. Lessee shall also assume the burden and expense of defending all legal actions, including attorney's fees, whether brought before the expiration of this Lease or thereafter, which are commenced to recover for injuries occasioned by such accidents. This obligation of Lessee shall extend to both injuries to persons and to property, and shall extend to claims arising from such accidents which are either valid or groundless.

4. With the exception of internet availability, Lessee agrees it is solely responsible for all expenses and costs related to utilities and cleaning services. Lessor has internet with a commercial cable provider. Lessee agrees to allow Lessor access to the leased premises at any time for the purposes of servicing internet. In exchange Lessor shall provide Lessee internet access without charge. The manner in which internet is provided is in the sole discretion of Lessor. Lessor shall provide the following:

- a. Maintenance and cleaning of lawns, shrubbery, sidewalks, and paved areas, including snow and ice removal.
- b. Any fire or safety inspection as may be required by Local, State or Federal laws and regulations.
- c. Required fire extinguishers and servicing, pest control, and outside trash disposal, including provision for the handling of recyclable items such as aluminum cans, cardboard and paper.
- d. Lessor agrees to assist and facilitate, although not having any financial responsibility for, Lessee obtaining access to jacket water waste heat generated from Lessor's GE-Jenbacher's; this waste heat shall be provided at no cost. Any actions to or associated with the GE-Jenbacher's is at the sole discretion and control of Lessor.

5. Certain lease hold improvements must be made before Lessee takes possession of the premises; specifically the relocation of Appalachian State University's (hereinafter "ASU") equipment within the leased premises, which Lessor, although not having any financial responsibility for, will assist with facilitating, and the erection of an outdoor retention dike for bulk storage which Lessor will be responsible for.

6. Lessor agrees to assist and facilitate, although not having any financial responsibility for, the erection of:

- a. An attached boiler room no less than 15ft x 15ft on the southern end of the western wall; and
 - b. Two roofs to cover the areas where trucks will be loading and unloading.
- Any such improvements shall be submitted by Lessee for approval by Lessor. Improvements are subject to all Local, State and Federal laws and regulations and the provisions of paragraph 12 below.

7. Lessee agrees that it shall use the Biodiesel Facility only for the purpose of manufacturing biodiesel and associated byproducts and shall follow all the rules and regulations for operation of the Biodiesel Facility. Lessee shall not change the use from biodiesel manufacturing and associated byproducts without the prior written approval of Lessor.

8. Lessee agrees to lease a portion of the Biodiesel Facility to ASU for research purposes. Lessee agrees to provide ASU with a minimum of 180 days notice prior to terminating the lease between Lessee and ASU.

9. Lessee is responsible for full maintenance of the Biodiesel Facility. Full maintenance shall include all permanent aspects of the building including: paint, flooring, fixtures, HVAC, plumbing, electrical, lighting. Prior to Lessee making any alterations to the building or grounds, Lessee must first obtain written authorization to proceed from Lessor. Lessee hereby grants Lessor the authority to perform regular inspections of the premises, both inside the building and out, for purposes of ensuring there are no outstanding maintenance issues.

10. Lessee recognizes the importance of education regarding the work done in this facility and agrees to permit Lessor's visitors to tour the Facility providing all visitors are accompanied by a

guide representing Lessor while in the Facility. All visitors must follow established safety protocols and must not disrupt the normal course of biodiesel production.

11. Throughout the term of this Agreement, Lessor shall retain the right to use the lobby, meeting room, back office, bathrooms and parking.

12. Lessor will provide Lessee with any information already in Lessor's possession that Lessee may need to obtain any licenses, permits or other approvals necessary for Lessee's production of biodiesel. Lessee is responsible for all costs and fees associated with any changes to any of Lessor's current permits, licenses or other approvals as a result of Lessee's activities.

13. Lessee is responsible for complying with any fuel reporting requirements including, but not limited to, EPA Renewable Fuel Standard Program, federal excise taxes, federal EIA reporting, and state fuel taxes. Lessee will maintain, at its discretion, optional accreditations and licenses.

14. Lessor will permit Lessee's fuel customers to have access to the bulk rack Twenty-four (24) hours a day, seven (7) days a week.

15. Lessee will cooperate with Lessor, and any other research institutions Lessor has an association with, and will not interfere with current and future development of the EcoComplex.

16. Lessee will provide quarterly reports to Lessor, or more frequently if required or requested, which are necessary to maintain the Lessees' and Lessors' compliance with any agreement, permit, grant or any other applicable law, rule or regulation as well as statistics related to production amounts, chemicals used etc.

17. Attached as Exhibit B and incorporated herein (BRB to provide Exhibit), is a list of chemicals and quantities thereof that Lessees anticipates having at the leased premises. Lessee agrees it shall provide immediate written notice to Lessor of any changes in the types of chemicals and/or an increase of 10% or more of any chemical listed. The parties acknowledge that due to Lessor's activities and requirements this is an essential component of this lease.

18. Lessor shall continue to provide insurance coverage for the real property that is the subject of this Agreement. Lessee shall provide liability insurance including coverage for all contents and personal property located within the Biodiesel Facility and coverage for any incident of personal injury that may occur on the leased premises. Specifically Lessee shall maintain at all times during the term of this Agreement, at Lessee's sole expense:

a. Commercial General Liability insurance, including coverage for products and completed operations liability, contractual liability, liability from independent contractors, property damage liability, bodily injury liability, and personal injury liability with limits of not less than \$1,000,000 per occurrence, and \$2,000,000 annual aggregate. The limits may be satisfied by a combination of primary and excess insurance. The coverage shall be written on an occurrence basis.

b. Business Auto insurance for any owned, hired, rented, or borrowed vehicle with a limit of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. The limit may be satisfied by a combination of primary and excess insurance. The policy must also include the MCS-90 endorsement.

c. Statutory Workers Compensation insurance in accordance with the laws of North Carolina. Lessee shall also maintain Employers' Liability insurance with limits of not less than \$1,000,000 per accident and \$1,000,000 each employee for injury by disease.

d. General Requirements

i. Prior to beginning the work, Lessee shall provide written evidence of insurance as requested by the Lessor to confirm that these insurance requirements are satisfied. This requirement must be met on an annual basis in January of each year.

- ii. Lessor must be named as an additional insured under Lessee's automobile and general liability insurance. In the event of a loss arising out of, or related to, Lessee's services performed under this Agreement, Lessee's Liability insurance shall be primary (pay first) with respect to any other insurance which may be available to Lessor (including, but not limited to, self-insurance), regardless of how the "other insurance" provisions may read. Additional insured endorsements must be attached to Lessee's evidence of insurance and must include coverage for completed operations.
 - iii. The workers compensation policy must contain a waiver of subrogation in favor of Lessor.
 - iv. Lessor is responsible for insuring all of its own property and equipment.
 - v. All insurance policies put forth to satisfy the above requirements shall require the insurer to provide a minimum of sixty (60) days notice to Lessor of any material change in coverage, cancellation, or non-renewal.
 - vi. All insurance put forth to satisfy the above requirements shall be placed with insurance companies acceptable to Lessor. Any deductibles or self-insured retentions in the required insurance shall be subject to approval by Lessor.
 - vii. Lessee shall provide certificates of insurance to Lessor as evidence of the required coverage. Lessee agrees to provide complete copies of policies if requested. Failure of Lessee to provide timely evidence of insurance, or to place coverage with insurance, or to place coverage with insurance companies acceptable to Lessor, shall be viewed as Lessee's delaying performance entitling Lessor to all appropriate remedies under the law including termination of this Agreement.
19. Lessee is fully responsible for operating, maintaining and staffing the Biodiesel Facility and will, at all times, stay in compliance with all applicable local, state and federal laws, rules, regulations and requirements. Should Lessee be found in violation of any law, rule, regulation or requirement by any regulatory body or court of law, Lessee will be responsible for any corrective action, fines, costs or other remedies that may be accessed or determined.
20. If Lessee shall fail to comply with any other provision or condition of this Agreement upon its part to be kept and performed, or if Lessee shall file for bankruptcy, or shall make an assignment for the benefit of creditors, or if a receiver of any property of Lessee in or upon the Biodiesel Facility be appointed by action against Lessee, and such action shall not be vacated or annulled within sixty (60) days it shall be lawful for Lessor to re-enter the Biodiesel Facility, and again possess same as if this Lease had not been made, and all improvements to said real property shall become the property of the Lessor, and everything herein contained on the part of Lessor to be done and performed shall cease and determine without prejudice.
21. Lessee shall make all reasonable efforts to obtain required permits or approvals for its operations in the facility, however if Lessee is unable to secure a requisite permit or approval, Lessee shall immediately notify Lessor and Lessor shall release Lessee from further obligations under this Agreement.
22. As a result of an event of force majeure, including fires, explosions, acts of God, acts of public enemy, insurrections, riots, terrorism, embargoes, labor disputes, including strikes, lockouts and job actions, or boycotts and as a direct result Lessee is unable to continue its biodiesel operations, Lessor shall relieve Lessee until such time as Lessee is relieved from the effect of an event of force majeure and resumes completion of biodiesel production.
23. Lessee may terminate this Agreement, without cause, by providing no less than 364 days written notice to the other party. Lessor may terminate this Agreement, without cause, by providing no less than 2 years written notice to the other party, or one year provided that Lessor pays the cost of moving the Lessee from the Facility to a site within 80 miles of the Facility. Upon termination of this lease the Lessee will peaceably surrender the leased premises in as good order and condition

as when received, reasonable use and wear excepted.

24. For all purposes hereunder, including payment of rental, the address of the parties hereto are as follows:

Lessor: Catawba County
C/o Barry Edwards, Director of Utilities and Engineering
Post Office Box 389
Newton, North Carolina 28658

Lessee: Blue Ridge Biofuels, LLC
C/o Woodrow Eaton, General Manager
109 Roberts Street
Asheville, North Carolina 28801

25. It is expressly understood and agreed by and between the parties hereto that this Lease sets forth all the promises, agreements and understandings between them.

26. This Lease Agreement is not assignable by either party without the written consent of the other, with the exception of the sub-lease to ASU as referenced herein.

27. This Lease, and all covenants, provisions and conditions herein contained shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, executors and administrators and each person executing this document has the full authority to do so.

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

**CATAWBA COUNTY
BOARD OF COMMISSIONERS**

11. Other Items of Business:
- a. New Position Classifications:
Two new classifications, Sr. Systems Architect (pay grade 84) and Systems Architect (grade 82), have been established and added to the existing pay plan. These classifications have been created to holistically guide the development, design, and implementation of the technology network's infrastructure and will be responsible for the development and build out of an optimal blueprint for the County's network, establishing equipment standards and change management protocols related to implementation of the established network blueprint, and ensuring that adequate steps have been taken to address overarching system security. Additional responsibilities will include establishing and directing everything from the physical layout of wiring and access points to the permissions and access of levels of particular groups of employees, and establishing and maintaining the digital elements of a network including intra-office communication, segmenting and firewall/filtering options. This information is being provided to you in accordance with Section 28-71 of the Catawba County Personnel Code, Amendment to classification plan.

b. Budget Transfers: Pursuant to Board authority granted to the County Manager, the following budget transfers have been completed:

County Manager Transfer between existing capital projects:

From:

475-431100-989100-21030 Heatherbrook Subdivision Water \$36,000

To:

475-431100-989100-20110 County Complex Distribution Collection System
\$36,000

4/17/14 – Transfer between existing water & sewer projects – Waterline installation for the new Animal Shelter was higher than originally projected.

County Manager Transfer between existing capital projects:

From:

410-460100-988000-19990 Future Projects
\$50,000

To:

410-460100-988000-18018 Sherrills Ford Library
\$50,000

4/17/14 – Transfer between existing general capital projects – Funds are transferred from future projects to provide needed shelving for the new Sherrills Ford Library.

County Manager Contingency Transfer:

From:

110-190100-994000 County Manager Contingency
\$3,000

To:
110-190050-829900 Other Misc. Benefits
 \$3,000

3/20/14 – Transfer from Contingency needed to cover anticipated expenses for remainder of year for bereavement flowers, Quarter Century Club, etc.

12. Attorney's Report: None.
13. Manager's Report: Assistant County Manager Harris did not have any items but Chair Barnes said she was pleased to have Mr. Harris filling the Manager's seat in Mr. Lundy's absence.
14. Adjournment. The Board adjourned the meeting at 10:20 a.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk