

RESOLUTION # _____

RESOLUTION OF INTENT TO ACCEPT A GROUND LEASE AGREEMENT WITH DUKE ENERGY PROGRESS, LLC
TO DESIGN, INSTALL AND MAINTAIN A SOLAR PHOTOVOLTAIC POWER ARRAY ON THE OLD COUNTY
LANDFILL PROPERTY

- WHEREAS, pursuant to NCGS §160A-272 a county has the authority to lease any county property for such terms and conditions as its board deems appropriate, but that any such lease with a term of more than 10 years shall be treated as a sale;
- WHEREAS, the County has adopted a goal of reaching 100% Renewable energy sources for County operations, while helping to educate, equip, and move our community toward practical renewable energy solutions;
- WHEREAS, at its September 5, 2017 regular meeting this Board reviewed the requests for proposal received in response to a request issued to solicit proposals to install a solar farm at the old landfill site; and this Board unanimously approved the proposal of Duke Energy Progress, LLC ("DEP") as best qualified for such a project and authorized the negotiation of a 25 year lease for placement of the solar farm;
- WHEREAS, the leasing of the closed landfill in Woodfin to DEP for the purposes of building a utility scale solar installation represents a tangible and cost effective opportunity for Buncombe County to take a significant step toward reaching this goal by offsetting approximately 10-15% of the County's energy consumption through locally sourced renewable energy;
- WHEREAS, after many months and many conference calls, the County and DEP have reached agreement as to the terms and conditions of a ground lease for the project, and which lease calls for a two year due diligence period intended for site investigation, interconnection study, permitting, and design purposes, and subject to satisfaction of lease contingencies, will be followed by an initial term of 25 years with options for 3 renewal terms of 5 years each;
- WHEREAS, the maximum rent to be paid by DEP to the County for its use of the site is \$700 per usable acre as determined through due diligence on a maximum of 30 acres of land over the first 5 years to be adjusted per formula described in the Lease in consideration of the transfer by DEP of Renewable Energy Certificates ("RECs") to the County during the term;
- WHEREAS, for the first 5 years of the term and assuming that the solar facility would be constructed as a maximum of a 5 megawatt system which would produce approximately 10,000 MWh, or megawatt hours of power, to the electrical grid, then the consideration of the County to DEP for the transfer of the resulting 10,000 RECs would be \$100 annually as a credit to the rents due and payable to the County;
- WHEREAS, beginning in year 6 of the term the multiplier for the RECs transfers will be \$1.00, rather than \$0.01 as provided for years 1-5, so making the same assumptions as above the rent

WHEREAS, adjustments for the RECs beginning in year 6 would be \$10,000; the proposed term of this lease requires that the transaction be treated as a sale;

WHEREAS, pursuant to NCGS §160A-269 a county has the authority to receive, solicit, or negotiate an offer to purchase property and advertise it for upset bids; and

WHEREAS, this Board desires to declare its intent to accept the terms of this Lease for said property, and, hereby, authorizes the Clerk to advertise the property for any upset bid in accordance with GS §160A-269.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. That this Board hereby declares its intent to accept this offer and enter into a Ground Lease Agreement with Duke Energy Progress, LLC ("DEP") for the property located at the closed landfill in Woodfin in order for DEP to conduct due diligence and design, install, and maintain a solar farm on the site under the terms and conditions set forth in the draft Ground Lease Agreement attached hereto.
2. That the County Manager, or his designees, are hereby authorized to accept or reject any further offer that conforms to this resolution and to proceed with a transaction in accordance with NCGS §160A-272 and §160A-269.
3. That should no qualifying upset bid or offer be made pursuant to NCGS §160A-269 then this Board hereby authorizes the Chairman of the Board of Commissioners, the Vice-Chair, and the County Manager, or any one of them, to execute the attached Ground Lease Agreement and to deliver any and all documents necessary on the County's behalf and to take all actions necessary to implement and complete this transaction in accordance with NCGS §160A-272 and §160A-269.
4. All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.
5. That this resolution shall be effective upon its adoption.

This the ____ of August, 2018.

ATTEST

Lamar Joyner, Clerk

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney