

RESOLUTION # _____

RESOLUTION RELEASING CERTAIN PORTIONS OF PROPERTY FROM THE PROGRESS
ENERGY LEASE OF THE LAKE JULIAN RECREATION AREA

Whereas, since at least 1973, Buncombe County has leased property from Carolina Power & Light Company, a North Carolina public service corporation, now d/b/a Progress Energy Carolinas, Inc., ("Progress") for the use and operation of a County Recreation Facility known as Lake Julian Park;

WHEREAS, as part of an economic development incentive initiative, Buncombe County acquired approximately 65.21 acres from Volvo Construction Equipment North America, LLC;

WHEREAS, various improvements to the facility encroach onto the property of Progress;

WHEREAS, these encroachments areas onto Progress property are used for erosion control measures, an unregulated storm water retention pond, and a concrete ramp;

WHEREAS, these encroachment areas are not used by and are not needed by Buncombe County for Lake Julian Park;

WHEREAS, these areas are described as follows:

Encroachment Areas

Being portions of the PEC Property located in Limestone Township, Buncombe County, North Carolina, more particularly described as follows:

1. The area shown as "0.13 ± ACRE" on a survey entitled "Survey of a Portion of Property Owned by Buncombe County & Progress Energy of the [sic] Carolinas[,Inc.] TOTAL AREA = 0.13 ± ACRE" prepared by Martin A. Barnes, PLS of Ed Holmes & Associates Land Surveyors, PA, and dated 8-22-2011, a copy of which is attached hereto;

2. The area shown as "1700 ± Sq. Ft. or 0.04 ± Acre" on a survey entitled "Survey of a Portion of Property Owned by Buncombe County & Progress Energy of the [sic] Carolinas[,Inc.] TOTAL AREA = 0.04 ± ACRE" prepared by Martin A. Barnes, PLS of Ed

Holmes & Associates Land Surveyors, PA, and dated 6-15-2011, a copy of which is attached hereto.

3. The area shown as "0.72 ± Acre" on a survey entitled "Survey of a Portion of Property Owned by Buncombe County & Progress Energy of the [sic] Carolinas[,Inc.] TOTAL AREA = 0.72 ± ACRE" prepared by Martin A. Barnes, PLS of Ed Holmes & Associates Land Surveyors, PA, and dated 8-22-2011, a copy of which is attached hereto.

4. The area shown as "0.19 ± Acre" on a survey entitled "Survey of a Portion of Property Owned by Buncombe County & Progress Energy of the [sic] Carolinas[,Inc.] TOTAL AREA = 0.19 ± ACRE" prepared by Martin A. Barnes, PLS of Ed Holmes & Associates Land Surveyors, PA, and dated 6-15-2011, a copy of which is attached hereto.

5. The area shown as "0.03 ± acre Proposed Easement" on a survey entitled "Survey of a Portion of Property Owned by Buncombe County & Progress Energy of the [sic] Carolinas[,Inc.] TOTAL AREA = 0.03 ± ACRE" prepared by Martin A. Barnes, PLS of Ed Holmes & Associates Land Surveyors, PA, and dated 8-22-2011, a copy of which is attached hereto.

WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of Buncombe County to release this area from the Lake Julian Lease.

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

1. That this Board does hereby release these five (5) encroachment areas from the use and operation of the County Recreation Facility known as Lake Julian Park, and Carolina Power & Light Company, a North Carolina public service corporation, now d/b/a Progress Energy Carolinas, Inc. is hereby specifically released from any further obligation to Buncombe County with respect to these five (5) encroachment areas under the terms and conditions of the said Lake Julian Park lease as well as any and all amendments to the same.
2. That by and with the approval of the County Attorney, the Chairman and County Manager, or either of them, are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other

documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution; except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution.

- 3. All resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.
- 4. That this resolution be effective upon its adoption.

ADOPTED this the 5th day of June, 2012.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

By: _____
David Gantt, Chairman

APPROVED AS TO FORM

Michael C. Frue, County Attorney