

RESOLUTION # \_\_\_\_\_

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED LEASE AGREEMENT FOR OPERATION OF THE LAKE JULIAN RECREATION AREA

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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; and

WHEREAS, Lake Julian Park has been and continues to be a family recreational facility located on the banks of 320 acre Lake Julian; the park offers picnicking, boating, fishing, a playground, outdoor games and special events; and

WHEREAS, at all times, Lake Julian has been and will continue to be a lake for primary use as a cooling reservoir in connection with Progress' Asheville Steam Electric Generating Plant ("Asheville Plant") as now existing and as may be expanded in the future; and

WHEREAS, Progress and Buncombe County now desire to enter into this Amended and Restated Lease Agreement in order to more particularly describe the leased premises, extend the lease term, and amend certain other terms and conditions of the Original Lake Julian Lease; and

WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of Buncombe County to enter into this Amended and Restated Lease Agreement.

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

1. That this Board hereby approves the attached Amended and Restated Lease Agreement and authorizes the Chairman of the Board of Commissioners and the County Manager, or either of them, to execute that Amended and Restated Lease Agreement on the County's behalf and to take all actions necessary to implement the actions required by that Agreement.
2. 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, including without limitation to negotiate and approve changes to the language of the

Amended and Restated Lease Agreement and any sublease of the County so long as the same is not in contravention, in any way, of the specific provisions of this Resolution.

- 3. 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.
- 4. Any prior 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.
- 5. This Resolution is effective upon its adoption.

This the 16th of October, 2012.

ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

\_\_\_\_\_  
Kathy Hughes, Clerk

By: \_\_\_\_\_  
David Gantt, Chairman

APPROVED AS TO FORM

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Michael C. Frue, County Attorney