

2007-0014

INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT

(DEPARTMENT OF ECONOMIC DEVELOPMENT & TOURISM)

RESOLUTION NO. 5399

A resolution authorizing the Parish President to execute a preliminary agreement between the Parish of St. Charles, Louisiana and Renewable Energy Group, Inc. authorizing the issuance of revenue bonds in one or more series to finance certain facilities and providing for other matters in connection with the foregoing.

- WHEREAS,** it is the desire of the Parish Council of the Parish of St. Charles, Louisiana, as governing authority of the Parish of St. Charles, Louisiana (the "Issuer") to encourage the acquisition, construction and equipping of a bio-diesel production facility within the Parish of St. Charles, Louisiana (the "Parish"), under the authority of Sections 991 through 1001, inclusive of Title 39 of the Louisiana Revised Statutes of 1950, as amended (collectively, the "Act"), and other constitutional and statutory authority supplemental thereto; and,
- WHEREAS,** Renewable Energy Group, Inc. a _____ corporation (the "Company"), proposes to finance the acquisition, construction and equipping of a bio-diesel production facility (the "Project") within the Parish if the Issuer will utilize the aforesaid authority in the manner hereinafter provided; and,
- WHEREAS,** this Parish Council has concluded that the aforesaid project meets the criteria and guidelines established by the Parish Council, that the acquisition, construction and installation of said project will benefit the welfare and economy of the citizens of the Parish and that it is in the public interest of said citizens to encourage the acquisition, construction and equipping of said facilities; and,
- WHEREAS,** it is the desire of the Issuer to meet the criteria of the State Bond Commission in order to have the Project placed on the agenda of the State Bond Commission for approval; and,
- WHEREAS,** the Issuer, at the request of the Company, intends to issue the hereinafter described bonds as tax-exempt "Gulf Opportunity Zone Bonds" under Section 1400N of the Internal Revenue Code of 1986, as amended by the Gulf Opportunity Zone Act of 2005 (the "Code"), provided that said bonds are designated as such by the State Bond Commission, and obtains an allocation of volume cap for such Gulf Opportunity Zone Bonds, and meets the other applicable requirements of the Code; and,
- WHEREAS,** Section 1.150-2 of the income tax regulations prescribed by the Internal Revenue Service require that the issuer of tax exempt bonds adopt a bond resolution with respect to such bonds or make some other similar expression "official intent" towards the issuance of such bonds prior to the commencement of construction or acquisition of an industrial development project; and,
- WHEREAS,** the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), require that an applicable elected representative of a governmental unit approve the issuance of revenue bonds after a public hearing following reasonable public notice; and,
- WHEREAS,** the Issuer desires to give notice of intention to hold a public hearing to consider the issuance of the Bonds in one or more series; and,
- WHEREAS,** one purpose of this resolution is to satisfy the requirements of said income tax regulations; and,
- WHEREAS,** it is now the desire of this Parish Council to authorize the Parish President to execute an appropriate agreement evidencing the understanding of this Parish Council with respect to the issuance of the revenue bonds hereinafter described.

NOW, THEREFORE, BE IT RESOLVED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL acting as the governing authority of the Issuer, that:

SECTION 1. Pursuant to the authority of the Act, the *project*, consisting of the acquisition, construction and equipping of a bio-diesel production facility in St. Charles Parish, Louisiana (the "Project"), described and defined in Schedule 1 hereto is hereby approved and the financing of a portion of the cost of the acquisition, construction and equipping thereof by the Parish of St. Charles (the "Issuer"), through the issuance of its revenue bonds in one or more series pursuant to the Act is hereby authorized, such bonds to be in an amount not exceeding \$130,000,000 and to be designated revenue bonds (the "Bonds") and to be issued in the form of Gulf Opportunity Zone Bonds described in Section 1400N of the Code, subject to the requirements for such bonds as set forth in the Code.

SECTION 2. The Parish President is hereby authorized, empowered, and directed to execute, for and on behalf of the Issuer, an agreement between the Issuer and Renewable Energy Group, Inc, or a related entity (the "Company"), authorizing the issuance of the Bonds in an amount not exceeding \$130,000,000, to finance the cost of the Project located in the Parish, said Agreement to be substantially in the form and to contain substantially the terms and provisions as set forth in Schedule 1 hereto.

SECTION 3. The Parish President is authorized and empowered to take any and all further action and to sign any and all documents, instruments and writings as may be necessary to carry out the purposes of this resolution and to file, on behalf of the Issuer, with any governmental board or entity having jurisdiction over the Project, such applications or requests for approval thereof as may be required by law, including an application to the State Bond Commission for preliminary approval of the financing. Application is also authorized to be made to the State Bond Commission, the Governor of the State of Louisiana and/or any other applicable governmental bodies, in connection with the designation of the Bonds as Gulf Opportunity Zone Bonds pursuant to the Gulf Opportunity Zone Act of 2005.

It is the policy of the State Bond Commission that in the event that at any time, either before, at or after the issuance of the Certificates, the Issuer determines to utilize any interest rate swap, hedge or other form of derivative product in connection with the Certificates, the District must comply with the "State Bond Commission Policy on Approval of Proposed Use of Swaps, or other forms of Derivative Products Hedges, Etc.," adopted by the State Bond Commission on July 20, 2006." In particular, any proposed interest rate swap, hedge or other form of derivative product will include the terms and conditions required by said State Bond Commission Policy, or a detailed explanation of any variance from said policy must be furnished to the State Bond Commission prior to entering into such interest rate swap, hedge or other form of derivative product.

SECTION 4. The Parish President, or his designee, be and he is hereby authorized, empowered and directed to conduct a public hearing and publish a notice of public hearing, said notice of public hearing to be published not less than one time as soon as possible and in any event not less than fourteen (14) days in advance of said hearing.

SECTION 5. Prior to the delivery of the Bonds, the Issuer anticipates that the Company may pay a portion of the costs of the Project from its general fund or other available funds. The Issuer and the Company reasonably expect to reimburse any such expenditures or other available funds from a portion of the proceeds of the Bonds upon the delivery of the Bonds. Any such allocation of proceeds of the Bonds for reimbursement will be with respect to capital expenditures (as defined in Reg. 1.150-1(b)) and will be made upon the delivery of the Bonds and not later than one year after the later of (i) the date such expenditure was paid or (ii) the date on which the Project was placed in service. This Section is intended to be a declaration of official intent with the meaning of Treasury Reg. 1.150-2.

SECTION 6. It is recognized, found and determined that a real necessity exists for the employment of Bond Counsel in connection with the issuance of the Bonds and, accordingly, Adams and Reese LLP, Bond Counsel, New Orleans, Louisiana, are hereby employed as Bond Counsel to the Issuer to do and to perform comprehensive, legal and coordinate professional work with respect to the issuance and sale of the Bonds. Bond Counsel shall (i) prepare and submit to the Issuer for adoption all of the proceedings incidental to the authorization, issuance, sale and delivery of the Bonds, (ii) counsel and advise the Issuer with respect to the issuance and sale of the Bonds and (iii) furnish their opinion covering the legality of the issuance thereof. The fee to be paid Bond Counsel shall be an amount based on the Attorney General's then current Bond Counsel Fee Schedule and other guidelines for comprehensive, legal and coordinate

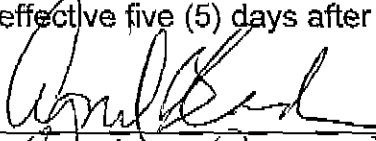
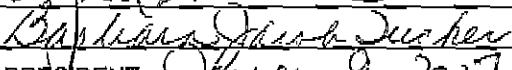
professional work in the issuance of revenue bonds applied to the actual aggregate principal amount issued, sold, delivered and paid for at the time Bonds are delivered, together with reimbursement of out-of-pocket expenses incurred and advanced in connection with the issuance of the Bonds, said fee to be contingent upon the delivery of the Bonds and payable out of Bond proceeds or other funds provided by the Company subject to the Attorney General's written approval of said employment and fee, as required by the Act.

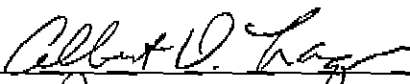
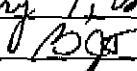
SECTION 7. It is recognized, found and determined that a real necessity exists for the employment of local special counsel and Robert L. Raymond is hereby employed in such capacity. He is hereby employed to do and to perform as special counsel to the Issuer. The fee to be paid shall be an amount based on the Attorney General's then current fee schedule and other guidelines on an hourly basis not to exceed such schedule and shall be paid from an administrative fee or other arrangement with the Parish, subject to the Attorney General's written approval of said employment and fee, as required by the Act.

The foregoing resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: FAUCHEUX, HILIARE, FABRE, RAMCHANDRAN, WALLS, BLACK,
DUHE
NAYS: NONE
ABSENT: MARINO, MINNICH

And the resolution was declared adopted this 8th day of January, 2007, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: 
SECRETARY: 
DLVD/PARISH PRESIDENT: January 9, 2007
APPROVED: _____ DISAPPROVED: _____

PARISH PRESIDENT: 
RETD/SECRETARY: January 9, 2007
AT: 11:45 AM RECD BY: 

PRELIMINARY AGREEMENT
FOR ISSUANCE OF REVENUE BONDS

THIS AGREEMENT between the PARISH OF ST. CHARLES, LOUISIANA (the "Issuer") and RENEWABLE ENERGY GROUP, INC., an Iowa corporation (the "Company"):

W I T N E S S E T H :

1. Preliminary Statement. Among the matters of mutual understanding which have resulted in the execution of this Agreement are the following:

(a) The Issuer is a political subdivision of the State of Louisiana and is authorized by the provisions of Sections 991 through 1001, inclusive of Title 39 of the Louisiana Revised Statutes of 1950, as amended (collectively, the "Act"), and authorized to undertake and complete development projects as therein defined and in furtherance thereof to acquire, purchase, lease, rent, construct or improve industrial plant sites and industrial plant buildings as described in the Act.

(b) The Company proposes to finance the acquisition, construction and equipping of a bio-diesel production facility in St. Charles Parish, Louisiana (the "Project"), as more particularly described in Exhibit "A" attached hereto. Subject to the terms hereof, the Issuer intends this Agreement to be its commitment to issue its revenue bonds (the "Bonds") in an amount agreed to by the Issuer and the Company up to \$130,000,000 and to expend the proceeds thereof to finance a portion of the cost of the Project, including without limitation, the costs of planning, designing, acquiring, renovating, financing, constructing, modifying, installing and equipping the Project and all costs of the Issuer in connection with the issuance of the Bonds, including legal fees and expenses and printing, engraving, and publication costs (the "Cost of the Project"). The Issuer shall be furnished satisfactory financial information, including financial statements and such other items as the Issuer may request, relative to the financial matters of the Company and the marketability of the Bonds proposed to be issued.

(c) The Issuer considers that the issuance and sale of the Bonds for the purpose hereinabove set forth will be appropriate and consistent with the objectives of the Act. This commitment constitutes the adoption of an official intent of the Issuer acting by and through

its Parish Council, represented by its Parish President and/or Secretary of the Parish Council, or other authorized officers, toward the issuance of the Bonds as herein contemplated in accordance with the laws of Louisiana and the United States Treasury Regulations, Section 1.150-2(e).

2. Undertakings on the Part of the Issuer. Subject to the terms hereof, the Issuer agrees as follows:

(a) The Issuer will cause the authorization of the issuance of the Bonds in an aggregate principal amount not to exceed the estimated Cost of the Project.

(b) Contingent upon the delivery of the Bonds and the receipt of the proceeds thereof, the Issuer proposes to enter into a lease and sub-lease, a sale and lease and/or other financing agreements (the "Finance Agreements") with the Company. The Company's obligations to make payments under the Finance Agreements shall be sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bonds as well as paying agent fees, trustees' fees, and all other costs and charges in connection with the servicing of the Bonds.

(c) The Issuer will cooperate with the Company with respect to the issuance and sale of the Bonds, and will take such action and authorize the execution of such documents and the taking of such further action as may be necessary or advisable for the authorization, issuance and sale of the Bonds by the Issuer, all as shall be authorized or permitted by law and as shall be mutually satisfactory to the Issuer and the Company. It is specifically understood that the obligation of the Issuer to acquire the Project through the purchase or leasing thereof, if Bonds be issued therefor, is limited solely to the payment therefor out of Bond proceeds, and the purchase price or rental, as the case may be, to be paid by the Issuer to the Company for the Project shall not exceed the cost of the Project, which cost may include issuance fees and expenses and interest on the Bonds during construction, or the net proceeds of the Bonds available to the Issuer for such purpose, whichever is less.

(d) In authorizing the issuance of the Bonds pursuant to this Agreement, the Issuer will make no warranty, either express or implied, that the proceeds of the Bonds will be sufficient to pay the Cost of the Project or that the Project will be suitable for the Company's purposes or needs. The Company will agree that should the Cost of the Project exceed the amount of the Bond proceeds, the Company will nonetheless complete the Project and shall not be entitled to any reimbursement for any excess either from the Issuer, the Bondholders or the Trustee.

(e) The Bonds shall specifically provide that they are payable solely from the income and revenues derived from the Project, except to the extent payable out of amounts attributable to Bond proceeds. The Bonds shall not constitute an indebtedness or pledge of the general credit of the Issuer, within the meaning of any constitutional or statutory limitation of indebtedness.

(f) The Issuer will take such further action as may be required to implement its aforesaid undertakings as it may deem appropriate in pursuance thereof.

3. Undertakings on the Part of the Company. Subject to the terms hereof, the Company agrees as follows:

(a) The Company will use reasonable efforts to find one or more purchasers for the Bonds upon such terms and conditions as shall be mutually satisfactory to the Issuer and the Company.

(b) Prior to or contemporaneously with the sale of the Bonds, the Company will enter into the Finance Agreement providing for the completion of the Project under the terms of which the Company will obligate itself to pay to the Issuer (or the trustee, as the case may be) sums sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, on the Bonds as and when the same shall become due and payable, all paying agent fees, trustees' fees, and other costs and charges in connection with the servicing of the Bonds. The Finance Agreement will contain such other provisions as may be required or permitted by law and as shall be mutually acceptable to the Issuer and the Company.

(c) In addition to the payments required to pay the principal of, premium, if any, and interest on the Bonds, the Company will obligate itself to pay all costs of maintenance and operation of the Project, and casualty and property damage insurance and all taxes, governmental charges and other such charges, if any, which may be assessed or levied against or with respect to the Project.

(d) The operation of the Project will comply with all federal and state laws and regulations and the Company will obtain all necessary approvals and permits required hereunder.

(e) The Company agrees (i) to protect and insulate the Issuer, the Parish Council, and its commissioners individually, from any and all financial responsibility or liability

whatsoever with respect to the Project and the financing thereof; and (ii) to indemnify, defend and hold the Issuer and the aforesaid other parties harmless against any loss or damage to property or any injury or death of any person or persons occurring in connection with the construction, equipping and operation of the Project. Such indemnity shall be superseded by a similar indemnity in the Finance Agreement and in the event the Bonds are not delivered, said indemnity shall extend to causes of action arising prior or subsequent to the termination of this Agreement.

(f) The Company will agree to make such additional payments in such amounts and in such manner as may be provided for by agreement of the parties.

(g) The Company will reimburse the Issuer for all reasonable expenses incurred by the Issuer in connection with the financing of the Project, which expenses may be paid out of Bond proceeds.

(h) The Company will pay the reasonable out-of-pocket expenses, if any, of commissioners of the Parish Council and the Company will also pay the reasonable fees for rendered legal services of bond counsel or special legal counsel related to the Project, which fees may be paid out of Bond proceeds.

(i) The Company will take such further action as may be required to implement its aforesaid undertakings as it may deem appropriate in pursuance thereof.

4. General Provisions. Unless the following events shall have occurred within two (2) years from the date hereof, or such other later date as shall be mutually satisfactory to the Issuer and the Company, this Agreement may be cancelled by either party hereto :

(a) The Issuer and the Company shall have agreed on mutually acceptable terms for the Bonds and of the sale and delivery thereof and mutually acceptable terms and conditions of the agreements and documents referred to in section 3 and the action referred to in sections 2 and 3 hereof.

(b) Such other orders, rulings, approvals, consents, certificates or opinions of counsel as to such matters with respect to the Bonds, the Project, the Finance Agreement, any guaranty agreement(s) and trust instrument(s) securing the Bonds shall be obtained from such governmental, as well as non-governmental, agencies and entities as may have or assert

competence or jurisdiction over or interest in matters pertinent thereto and to the Project, and shall be in full force and effect at the time of the issuance of the Bonds. If the events set forth in this Section 4 do not take place within the time set forth herein or any extension thereof, it is agreed that this Agreement may be cancelled at the option of the Issuer or the Company to be evidenced in writing, in which event neither party shall have any rights against the other party except the Company will reimburse the Issuer for all reasonable and necessary direct out-of-pocket expenses which the Issuer may incur arising from the execution of the Agreement and the performance by the Issuer of its obligations hereunder; provided, however, that the indemnity provided for in Section 3(e) hereof shall continue in full force and effect.

5. Upon the delivery of the Bonds, the provisions of the Agreement shall have no further effect (except with respect to Sections 7 and 8 hereof), and, in the event of any inconsistency between the terms of the Agreement and the terms of the Finance Agreement or any guaranty agreement(s) and trust instrument(s) securing the Bonds, the provisions of the Finance Agreement and the guaranty agreement(s) and trust instrument(s) shall control.

6. All covenants and agreements herein contained by or on behalf of the Issuer and the Company shall bind and inure to the benefit of the respective successors and assigns of the Issuer and the Company whether so expressed or not.

7. It is recognized, found and determined that a real necessity exists for the employment of Bond Counsel in connection with the issuance of the Bonds and, accordingly, Adams and Reese LLP, Bond Counsel, New Orleans, Louisiana, are hereby employed as Bond Counsel to the Issuer to do and to perform comprehensive, legal and coordinate professional work with respect to the issuance and sale of the Bonds. Bond Counsel shall (i) prepare and submit to the Issuer for adoption all of the proceedings incidental to the authorization, issuance, sale and delivery of the Bonds, (ii) counsel and advise the Issuer with respect to the issuance and sale of the Bonds and (iii) furnish their opinion covering the legality of the issuance thereof. The fee to be paid Bond Counsel shall be an amount based on the Attorney General's then current Bond Counsel Fee Schedule and other guidelines for comprehensive, legal and coordinate professional work in the issuance of revenue bonds applied to the actual aggregate principal amount issued, sold, delivered and paid for at the time Bonds are delivered, together with

reimbursement of out-of-pocket expenses incurred and advanced in connection with the issuance of the Bonds, said fee to be contingent upon the delivery of the Bonds and payable out of Bond proceeds or other funds provided by the Company subject to the Attorney General's written approval of said employment and fee, as required by the Act.

8. It is recognized, found and determined that a real necessity exists for the employment of local special counsel and Robert L. Raymond is hereby employed in such capacity. He is hereby employed to do and to perform as special counsel to the Issuer. The fee to be paid shall be an amount based on the Attorney General's then current fee schedule and other guidelines on an hourly basis not to exceed such schedule and shall be paid from an administrative fee or other arrangement with the Parish, subject to the Attorney General's written approval of said employment and fee, as required by the Act.

9. It is recognized and agreed that the Company may exercise its rights hereunder and perform its obligations hereunder through or in conjunction with a wholly owned subsidiary, other related legal entity or operating entity and all references herein to the Company shall be deemed to include the Company acting directly through itself or through or with any wholly owned subsidiary, other related legal entity or operating entity.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement through their representatives duly authorized as of the 8th day of January 2007

ST. CHARLES PARISH

By: Albert O. Lopez
Parish President

ATTEST:

By: Beth Ann Jacob Fischer
Secretary

(SEAL)

RENEWABLE ENERGY GROUP, INC.

By: Scott Munt
Title: Business Development Manager

EXHIBIT "A"

THE PROJECT

The Project consists of the acquisition, construction and equipping of a bio-diesel production facility in St. Charles Parish, Louisiana, for the benefit of Renewable Energy Group, Inc. a Tawa Corp., or related entity.