



REQUEST FOR BOARD ACTION

ITEM NO. 10.

DATE OF MEETING: January 4, 2010

REQUESTED BY: Michael Mack, Director, PCU

SHORT TITLE: Resolution Authorizing Approval of an Amended Agreement with Pender Packing Company, Inc., for Constructing Sewer Improvements to Allow Pender Packing Company to Remain at their Current Location.

BACKGROUND: Pender Packing Company, a privately held sausage processing company established in Rocky Point in 1950, utilizes an on-site private wastewater treatment facility that was installed in 1993. In November, 2005, Pender Packing Company was issued a "Notice of Violation and Assessment of Civil Penalty" for violations of their NCDENR – Division of Water Quality General Permit and now must pump and haul wastewater away from their facility. Pender Packing Company requested that Pender County extend sanitary sewer to its site to enable the company to discontinue the use of their wastewater treatment facility and pump and haul requirements.

To make the project financially feasible, Pender County applied for and received the following grant commitments in 2006 to be used toward sewer design and construction costs: a \$50,000 Rural Center Economic Infrastructure Grant and a \$323,250 CDBG-ED Grant. Pender County with these grants and local funding will construct a forcemain project extending sewer service from Pender Packing's site on NC Highway 133 to the County's Cape Fear School pump station. From there, the sewage will be pumped via an existing forcemain along NC Highway 133 to Rocky Point/Topsail Regional Pump Station. Sewage collected by this station is pumped to the Cape Fear Public Utility's Northside Wastewater Treatment Facility.

On August 21, 2006, Pender Packing Company entered into an Agreement with Pender County and a subsequent Performance Agreement dated October 16, 2006 requiring Pender Packing Company comply with the Rural Center and CDBG-ED Performance Agreements by committing to retain 35 existing jobs and creating 5 new jobs of which 60% of positions will be filled by persons from low/moderate income households.

In consideration of the project budget and as a requirement of the Agreements with Pender County, Pender Packing Company agrees to pay the "Local Match" portion of the project budget and the Sewer Capacity Fee of \$8.00 per gallon that was in place at the time of the original agreement. The Local Match portion of the project is \$33,706 and the Capacity Fee of \$8.00 per gallon for 5,860 gallons is \$46,880 for a total contribution of \$80,586 by Pender Packing Company.

SPECIFIC ACTION REQUESTED: The Board of Commissioners is requested to approve the Amended Agreement between Pender County and Pender Packing Company.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

PTB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that

the attached Amended Agreement with Pender Packing Company is approved for the construction of sewer improvements to serve the current Pender Packing Company location on US Highway 133.

The Chairman/County Manager is authorized to execute any document necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Tate ___ Blanchard ___ Brown ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman 01/04/10
DATE

ATTEST 01/04/10
DATE

AMENDED AGREEMENT

THIS AMENDED AGREEMENT (the "Agreement") is entered into as of the ____ day of _____, 2010, by and between **Pender Packing Company, Inc.**, (the "Company") and **Pender County** (the "County"). The Company and County entered into the original agreement dated August 21, 2006. This amended agreement will not become effective until all conditions placed upon the County's funding approval are satisfied and funds are released by the Department of Commerce pursuant to a Community Development Block Grant (hereinafter "CDBG") with the County. The parties agree as follows:

1. The County has been approved to receive a Community Development Block Grant from the Department of Commerce in the amount of \$323,250 and a \$50,000 North Carolina Rural Center Economic Incentive grant to be used to benefit low to moderate-income persons by financing the economic development project.
2. This economic development project consists of constructing sewer improvements that will extend a sewer force main from The Pender Packing site on NC Highway 133 to Pender County's Sewer Lift Station at C. Heide Trask High School, with eventual discharge into the County's Regional Lift Station at the intersection of NC Hwy. 133 and US Hwy. 117. Sewage collected by this Lift Station will be pumped to the Cape Fear Public Utility Authority's Northside Wastewater Treatment Plant for treatment through an existing inter-local agreement.
3. This project is necessary to allow Pender Packing to discontinue use of its sewage treatment plant that has reached capacity resulting in the Company having to pump and haul wastewater from its facility.
4. The CDBG project will retain 35 jobs at Pender Packing with the Company committing to 33 retentions in the required Legally Binding Commitment with 60% of the retained positions being filled by individual from low to moderate income households.
5. In consideration for the NC Rural Center Economic Incentive Grant, Pender Packing agrees to create five (5) new positions, a figure that must be reached within 12 months of the Substantial Completion date and verified on the 12th and 18th month following the Substantial Completion date.
6. The updated budget for this project has been estimated as follows:

ACTIVITY	COST	CDBG FUNDING	RURAL CENTER FUNDING	LOCAL MATCH
Construction Cost	\$ 331,836			
Contingency	\$ 30,000			
Subtotal Construction	\$ 361,836	\$ 280,000	\$ 50,000	
Technical Services (Engineering)	\$ 35,000	\$ 35,000		
Construction Observation	\$ 30,000	\$ 8,250		
Admin/Legal (Permitting)	\$ 7,000			
Additional Svcs. – Grant Admin	\$ 20,000			
TOTAL OPINION OF PROBABLE COST (SUB TOTAL SEWER CONSTRUCTION)				
	\$ 453,836	\$ 323,250	\$ 50,000	\$ 80,586
TOTAL	\$ 453,836	\$ 323,250	\$ 50,000	\$ 80,586

7. The local match of \$33,706 will be paid by Pender Packing along with a commitment to fund any additional costs associated with completion of this project.
8. Pender County Utilities will assume full ownership and maintenance of the Lift Station when the CDBG-ED and Rural Center grants are closed out.

9. Pender Packing will pay the "going rate" for water/sewer charges as determined by the Board of Directors of the Rocky Point/Topsail Water and Sewer District, including the one-time up front \$8.00 per gallon "Capacity Fee" that was in place at the time project discussions began. The Capacity Fee for 5,860 gallons is \$ 46,880.00.
10. Each party shall keep and maintain books, records and other documents relating directly to the receipt and disbursement of grant funds and fulfillment of this Agreement
11. Each party agrees that any duly authorized representative of the County, NC Dept. of Commerce, and the NC Rural Center, shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all of the books, records and other documents relating to the grant and the fulfillment of the Agreement for a period of three (3) years following the completion of all closeout procedures respecting the CDBG/NC Rural Center funds, and the final settlement and conclusion of all issues arising out of the CDBG/NC Rural Center funds.
12. If, at the Close of this Project, the Company has failed to retain the full number of job positions and low to moderate income job positions, and/or has failed to create the additional positions required, the Company shall be fully responsible for remuneration as determined by the Department of Commerce and the NC Rural Center.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.

PENDER COUNTY:

By: Jimmy T. Tate, Chairman

Attest:

PENDER PACKING COMPANY, INC.:

By: Danny L. Baker, President

Attest:
