

REQUEST FOR BOARD ACTION

ITEM NO. 19.

DATE OF MEETING: January 4, 2010

REQUESTED BY: Rick Benton, County Manager

SHORT TITLE: Resolution Approving First Amendment to the Water Supply Agreement between Pender County and the Lower Cape Fear Water and Sewer Authority

BACKGROUND: In 2006 the County entered into an agreement with the Lower Cape Fear Water and Sewer Authority (Authority) for the payment of a System Development Charge in the amount of \$935,082. The agreement provided for the payment in semiannual installments at an annual interest rate of 5.25%. The Authority has agreed to lower the interest rate to 4.09% effective January, 2010, and has provided an amendment to the initial agreement providing for the lower interest rate for the Board's consideration. The semi-annual payment will be reduced by \$5,639.38 (from \$60,498.64 to \$54,859.26). The amendment has been approved and executed by the Authority. Chairman Tate and Vice Chairman Blanchard are the County's representatives to the Authority.

SPECIFIC ACTION REQUESTED: To consider a resolution approving the First Amendment to Water Supply Agreement with the Lower Cape Fear Water and Sewer Authority.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

 JM
Initial

RESOLUTION

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

The First Amendment to the Water Supply Agreement between Pender County and the Lower Cape Fear Water and Sewer Authority dated December 7, 2009, is hereby approved. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

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

Jimmy T. Tate, Chairman Date

ATTEST Date

FIRST AMENDMENT TO WATER SUPPLY AGREEMENT

This First Amendment to Water Supply Agreement (the "First Amendment"), dated this 7th day of December, 2009, by and between the **LOWER CAPE FEAR WATER AND SEWER AUTHORITY** (the "Authority") and **PENDER COUNTY** (the "County").

W I T N E S S E T H:

WHEREAS, Authority and County entered into a Water Supply Agreement dated September 1, 2006 (the "Agreement"); and

WHEREAS, the Agreement provided in paragraph 5 for the payment by County to Authority of a non-refundable System Development Charge of \$935,082.00; and

WHEREAS, paragraph 5 of the Agreement further provided that the County could pay the System Development Charge over 10 years in semiannual installments together with interest on the unpaid principal at the rate of 5.25% per annum; and

WHEREAS, the County has requested the Authority to amend the interest rate on System Development Charge payments made pursuant to the Agreement and the Authority has agreed to do so; and

WHEREAS, this First Amendment is adopted in order to memorialize the various understandings and agreements between the Authority and the County as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

\1. Paragraph 5 of the Agreement is deleted in its entirety and the following is substituted in place thereof:

5. SYSTEM DEVELOPMENT CHARGE. Simultaneously with the execution of this Water Supply Agreement, the County shall pay to the Authority in lawful money of the United States of America a non-refundable System Development Charge of \$935,082.00 and a Connection Charge, at cost, as provided for in the Authority's Rules and Regulations. At the County's option, it may pay the System Development Charge over 10 years in semiannual installments of \$46,754.10 each, together with interest on the unpaid principal amount thereof

at the rate of 4.09% per annum. The interest rate to be paid by the County as set forth herein shall adjust in the same manner as does the interest rate paid by the Authority on the Series 2007 Revenue Bonds issued to finance improvements to the King's Bluff facility (which rate is currently 4.09%). If the County elects to pay in installments, the first installment will be due on or before the first day of January, 2007, with a like amount due on or before the first day of each July 1 and January 1 thereafter until the first day of July, 2016, at which time the remaining principal amount the System Development Charge plus all accrued interest shall be due and payable in full. The System Development Charge shall be payable notwithstanding that the County may be unable or unwilling to accept delivery of raw water from the Authority. The County shall not be required to pay a System Development Charge after the effective date of this Agreement unless the Authority is required to make improvements to provide the County with more than 6 mgd of raw water from the Water System.

2. The change in the interest rate provided in the amendment to paragraph 5 as set forth in the preceding paragraph shall be effective as of July 1, 2009.

3. Except as amended herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to Water Supply Agreement the day and year first above written.

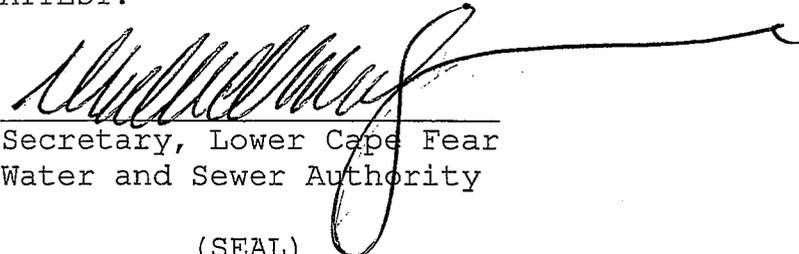
(SIGNATURES ON NEXT PAGE)

LOWER CAPE FEAR WATER AND
SEWER AUTHORITY

By:


Chairman, Lower Cape Fear
Water and Sewer Authority

ATTEST:


Secretary, Lower Cape Fear
Water and Sewer Authority
(SEAL)

PENDER COUNTY

By:

Chairman

ATTEST:

County Clerk

(SEAL)