



REQUEST FOR BOARD ACTION

ITEM NO. 22.

DATE OF MEETING: January 4, 2010

REQUESTED BY: Rick Benton, County Manager

SHORT TITLE: Resolution Waiving Pender County Allocation of Recovery Zone Economic Development Bonds and Directing Allocation to the Lower Cape Fear Water and Sewer Authority Kings Bluff Water Plant Project

BACKGROUND: The ARRA authorized these new types of economic development bonds (RZED bonds) for use in qualified economic areas for public economic development projects. Pender County was allocated \$1,390,000. The structure and cost of these bonds is not competitive with other financing options available to Pender County and other city and county governments in North Carolina, therefore the County does not intend to use the allocation.

However, the Lower Cape Fear Water and Sewer Authority does not have alternative competitive financing options available, therefore the Authority is requesting Pender County petition the NC Department of Commerce to reallocate Pender's allocation to the Kings Bluff Water Plant Project. The project cost is estimated at \$3.1 million, and the Authority desires to finance the project with RZED bonds.

The Authority is requesting the County: 1) request the Allocation Committee designate the County's RZED bond allocation to the financing of the King Bluff project; 2) designate the Authority as the issuer of the bonds; and 3) request the Allocation Committee reallocation additional RZED bond allocations to the County or to the Authority to be designated for this project.

Recently the Board waived its allocation of Recovery Facility Bonds for use in private projects, and asked that this allocation be directed to the Bladen Bluffs Regional Surface Water System Project in Bladen County, another project of the Authority.

SPECIFIC ACTION REQUESTED: To consider a resolution to: 1) request the Allocation Committee designate the County's RZED bond allocation to the financing of the King Bluff project; 2) designate the Authority as the issuer of the bonds; and 3) request the Allocation Committee reallocation additional RZED bond allocations to the County or to the Authority to be designated for this project.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

MB

Initial

RESOLUTION

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

Section 1. The County hereby requests the Committee to reallocate the County's RZED Bond allocation in the amount of \$1,390,000 for the Project, and designates the Authority as the issuer of such RZED Bonds to finance the Project.

Section 2. The County hereby requests the Committee to reallocate up to an additional \$1,710,000 of RZED Bond allocation to the County or the Authority to be used by the Authority for financing of the Project.

Section 3. The officers of the County are hereby authorized and directed to take such further actions as may be required in furtherance of this resolution, including filing such forms as may be required with the Committee in order to designate the use of its RZED Bond allocation for the Project and to request reallocation of additional RZED Bond designation for financing of the Project.

Section 4. Pursuant to and in satisfaction of the requirements of Sections 1400U-1 and 1400U-2 of the Internal Revenue Code of 1986, Chapter 51B of the General Statutes of North Carolina, and Section 159C of the General Statutes of North Carolina, the Board hereby approves the issuance by the Authority of the bonds described herein.

Section 5. The Deputy Clerk to the Board is directed, if requested or imposed by law, to file a certified copy of this resolution with the Authority and, if necessary, the Department of Commerce or any other governmental agency required by law.

Section 6. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 7. That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 8. That this Resolution is effective on the date of its adoption.

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

A regular meeting of the Board of Commissioners of the County of Pender, North Carolina (the "Board of Commissioners") was held in the Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina 28425, at 10:00 a.m. on January 4, 2010 (the "Meeting"), after proper notice, and was called to order by the Chairman, and on the roll being called, the following members of the Board of Commissioners answered present:

The following members of the Board of Commissioners were absent

Also present:

* * * * *

**RESOLUTION DESIGNATING ISSUER AND PROJECT
FOR AND APPROVING THE ISSUANCE OF
RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS**

WHEREAS, the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) ("ARRA") authorizes a new type of federally-subsidized bonds entitled "recovery zone economic development bonds" (the "RZED Bonds") in Sections 1400U-1 and 1400U-2 of the Internal Revenue Code of 1986, as amended (the "Code") to finance qualified economic development purposes, including expenditures for the purpose of promoting development or other economic activity in a recovery zone, including expenditures for public infrastructure and the construction of public facilities;

WHEREAS, the Internal Revenue Service in Notice 2009-50 allocated authority to issue RZED Bonds to certain cities and counties in North Carolina in accordance with the guidelines provided in ARRA, and the Tax Reform Allocation Committee, the entity responsible for reallocation of any unused recovery zone allocation (the "Committee") has promulgated regulations relating to the reallocation of that allocated authority in the event that cities and counties are unable to use their authority to issue RZED Bonds;

WHEREAS, the County received an allocation of \$1,390,000 for RZED Bonds;

WHEREAS, the Lower Cape Fear Water and Sewer Authority, a water and sewer authority created under Chapter 162A of the North Carolina General Statutes (the "Authority") intends to finance the installation of 1200 feet of 60 inch pipe and purchase and installation of three (3) Johnson screens (the "Project") at its Kings Bluff water plant; and

WHEREAS, the total cost of the Project is expected to be approximately \$3,100,000; and

WHEREAS, the Authority has requested the County (a) request the Committee to designate the County's RZED Bond allocation to the financing of the Project, (b) designate the Authority as the issuer of such RZED Bonds, and (c) request the Committee to reallocate additional RZED Bond allocation to the County or the Authority to be designated to the issuance of RZED Bonds by the Authority for the Project;

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

Section 1. The County hereby requests the Committee to reallocate the County's RZED Bond allocation in the amount of \$1,390,000 for the Project, and designates the Authority as the issuer of such RZED Bonds to finance the Project.

Section 2. The County hereby requests the Committee to reallocate up to an additional \$1,710,000 of RZED Bond allocation to the County or the Authority to be used by the Authority for financing of the Project.

Section 3. The officers of the County are hereby authorized and directed to take such further actions as may be required in furtherance of this resolution, including filing such forms as may be required with the Committee in order to designate the use of its RZED Bond allocation for the Project and to request reallocation of additional RZED Bond designation for financing of the Project.

Section 4. Pursuant to and in satisfaction of the requirements of Sections 1400U-1 and 1400U-2 of the Internal Revenue Code of 1986, Chapter 51B of the General Statutes of North Carolina, and Section 159C of the General Statutes of North Carolina, the Board hereby approves the issuance by the Authority of the bonds described herein.

Section 5. The Deputy Clerk to the Board is directed, if requested or imposed by law, to file a certified copy of this resolution with the Authority and, if necessary, the Department of Commerce or any other governmental agency required by law.

Section 6. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 7. That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 8. That this Resolution is effective on the date of its adoption.

