



REQUEST FOR BOARD ACTION

ITEM NO. 21.

DATE OF MEETING: June 7, 2010

REQUESTED BY: Michael G. Mack, Director, PCU

SHORT TITLE: Resolution Approving Amendment # 4 to the Water Purchase Contract between the Town of Wallace and Rocky Point/Topsail Water and Sewer District.

BACKGROUND: On December 6, 1999, the Rocky Point/Topsail Water and Sewer District entered into a contract for the purchase and delivery of drinking water from the Town of Wallace to serve the District. The original quantity of water purchased was 6,000,000 gallons per month. As the RPTWSD grew, additional water supply was necessary and on September 13, 2001, the District and the Town of Wallace executed a Contract Amendment to increase the amount that may be purchased up to 15,000,000 gallons per month. A 2nd Contract Amendment was executed on January 13, 2005 to increase the amount up to 24,000,000 and a 3rd Contract Amendment was executed on August 9, 2007 to increase the amount that may be purchased up to 36,000,000 gallons per month. However, the 3rd Amendment for the increased supply up to 36,000,000 gallons per month was only proposed to be in place until the Pender County Water Treatment Plant came on-line in 2010 and then dropped back down to 24,000,000. Therefore, the 3rd Amendment was to expire in December of 2010.

Staff met with Town of Wallace officials and confirmed that they could physically continue to supply up to 36,000,000 gallons per month and would consider a 4th Contract Amendment to extend the term of the 3rd Contract Amendment. The attached 4th Contract Amendment is for an initial term of thirty (30) years from the date of execution of the Amendment and, thereafter may be renewed or extended for four (4) additional five (5) year terms by RPTWSD and the Town of Wallace. The Town Council approved the 4th Amendment at their April 8, 2010 meeting.

Staff crafted the 4th Amendment and recommends approval.

SPECIFIC ACTION REQUESTED: The Board of Directors of the Rocky Point/Topsail Water and Sewer District is requested to approve the 4th Contract Amendment for 36,000,000 gallons per month of water supply from the Town of Wallace for the Rocky Point/Topsail District.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.



Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Rocky Point/Topsail Water and Sewer District that:

the 4th Contract Amendment for the supply of up to 36,000,000 gallons per month from the Town of Wallace 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 ___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman Date

ATTEST Date

4th Amendment to Contract

Whereas, the Rocky Point/Topsail Water and Sewer District (District) and the Town of Wallace (Town) entered into a contract for the purchase and delivery of water on December 6, 1999; and

Whereas, the original contract was subsequently amended on September 13, 2001, January 13, 2005, and August 9, 2007 to increase the quantity of water purchased by the District up to a maximum of 36,000,000 gallons per month; and

Whereas, the District and Town desire to maintain the mutually beneficial Water Purchase Contract, water capacity allocation, and Term of Contract,

Now, for good and mutual consideration the adequacy of which is jointly acknowledged, therefore, it is agreed and contracted to:

Amend Section A.1 and C.1 of the original Water Purchase Contract by striking the existing language and substituting the following:

- A.1. (Quality and Quantity) To Furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the United States Environmental Protection Agency in such quantity as may be required by the Purchaser, not to exceed 36,000,000 gallons per month.
- C.1. (Term of Contract) That this contract shall extend for an initial term of thirty (30) years from the date of execution of this Amendment and, thereafter may be renewed or extended for four (4) additional five (5) year terms by Purchaser and Town, but subject to the provision that Purchaser must notify Town in writing at least sixty days before the end of the initial 30-year term or any 5-year renewal term, of its intent to renew the contract for each additional term and, Town shall have the right, within any such sixty day notice period, to notify Purchaser in writing of its intent to terminate Purchaser's right to exercise any further option periods thereafter.