

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: FEBRUARY 28, 2019 AGENDA ITEM NUMBER: 13 A&B

- SUBJECT:**
- A. RESOLUTION AUTHORIZING AN AMENDMENT TO THE SOUTHWEST FORSYTH COUNTY CONSTRUCTION, FUNDING, AND MAINTENANCE AGREEMENT TO REIMBURSE THE CITY/COUNTY UTILITY COMMISSION FOR DEVELOPMENT AND CONSTRUCTION OF A REGIONAL SEWER LIFT STATION**

 - B. RESOLUTION ACCEPTING A LOAN OFFER FROM THE CLEAN WATER REVOLVING LOAN FUND UNDER THE DIVISION OF WATER QUALITY IN THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IN THE AMOUNT OF \$4,473,300 TO FUND THE IDOLS ROAD REGIONAL PUMP STATION**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION: See Attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Watts Jr. /AMS*
COUNTY MANAGER **DATE:** February 26, 2019

**RESOLUTION AUTHORIZING AN AMENDMENT TO THE SOUTHWEST
FORSYTH COUNTY CONSTRUCTION, FUNDING, AND MAINTENANCE
AGREEMENT TO REIMBURSE THE CITY/COUNTY UTILITY COMMISSION
FOR DEVELOPMENT AND CONSTRUCTION OF A
REGIONAL SEWER LIFT STATION**

WHEREAS at its August 17, 2017, meeting the Forsyth County Board of Commissioners authorized the Chairman or County Manager and Clerk to the Board to execute, on behalf of Forsyth County, an agreement to reimburse the City/County Utility Commission for the cost of a regional sewer lift station in the amount of \$4,473,300;

WHEREAS the agreement states that if the cost of the project exceeds \$4,400,000, the Commission will seek requisite approvals from Forsyth County for expenditures above \$4,400,000;

WHEREAS the City/County Purchasing Department requested bids for the construction of the sewer lift station due on February 5, 2019, and fewer than three bids were received and the City/County Purchasing Department re-advertised and three bids were received by City/County Purchasing on February 14, 2019;

WHEREAS the lowest qualified bidder was D.H. Griffin Infrastructure, LLC, at \$4,342,900, and the bidder was recommended by the project engineer;

WHEREAS the new estimated cost of the project including design and construction is \$5,483,398, which includes \$4,342,900 for construction, \$814,600 for design and engineering, \$217,000 for contingency, \$19,332 for property acquisition, and \$89,466 for loan closing costs, and is \$1,010,098 more than approved by the Forsyth County Board of Commissioners; and

WHEREAS the City/County Utility Commission, at its February 11, 2019, meeting, approved its participation in the regional sewer lift station project, agreeing to pay \$1,000,000 toward the design and construction of the project;

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby approves an amendment to the Southwest Forsyth County Construction, Funding, and Maintenance Agreement to accept the City/County Utility Commission's participation of \$1,000,000 in the design and construction of the regional sewer lift station and increase the County funding by \$10,098, to be taken from existing revenues in the Tanglewood Business Park CPO, to a total of \$4,483,398;

BE IT FURTHER RESOLVED, that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, an amendment to the Southwest Forsyth County Construction, Funding, and Maintenance Agreement, substantially in the form of the First Amendment which is attached hereto and incorporated herein by reference, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney; and

BE IT FURTHER RESOLVED, that this resolution ratifying interlocal cooperation among Forsyth County, Davie County, and the City/County Utility Commission is hereby spread upon the minutes of the Forsyth County Board of Commissioners.

Adopted this the 28th day of February 2019.

NORTH CAROLINA

**FIRST AMENDMENT TO SOUTHWEST FORSYTH
COUNTY CONSTRUCTION, FUNDING, AND
MAINTENANCE AGREEMENT**

FORSYTH COUNTY

THE MUTUAL AGREEMENT, made and effective on May 25, 2018, by and among Forsyth County, Davie County, and the City/County Utility Commission of the City of Winston-Salem and Forsyth County (hereinafter, the "Commission") (Forsyth County, Davie County, and the Commission, hereinafter, each, individually, a "Party", and, collectively, the "Parties"), is hereby amended, effective February 28, 2019, by the Parties as follows:

The first paragraph of Section 5 of the Agreement is hereby deleted, and the following shall be added as the first paragraph of Section 5:

5. Reimbursement Requests, Loan, and Repayment. The Commission shall pay \$1,000,000 for the cost of the Project. With the exception of this amount, Forsyth County shall be solely and ultimately responsible for the cost of the Project (including, but not limited to, the costs of design, inspection, and construction) and the acquisition of surveys, appraisals, and easements or rights-of-way for the Project. If the cost of the Project exceeds \$5,483,398, such that Forsyth County's share exceeds \$4,483,398, the Commission will seek requisite approvals from Forsyth County for Project expenditures above \$5,483,398. If Forsyth County refuses to pay such amount, the Project and the Agreement will terminate, and the Commission shall have no further liability or obligation to Forsyth County or Davie County, hereunder. Notwithstanding anything to the contrary herein, Forsyth County shall not be required to pay more than \$4,483,498 for the Project, and the Commission shall not be required to pay more than \$1,000,000 for the Project.

In the second paragraph of Section 5 of the Agreement, in line 15, "\$4.4 million" is hereby deleted and replaced with "\$4,483,498".

Except as herein amended, the Agreement attached as Attachment A and incorporated herein by reference remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have set their hands and seals as of the day and year first above written.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES.]

FORSYTH COUNTY, NORTH CAROLINA

(SEAL)

By: _____
J. Dudley Watts, Jr, County Manager

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

[SIGNATURES CONTINUE ON THE FOLLOWING PAGES.]

DAVIE COUNTY, NORTH CAROLINA

(SEAL)

By: _____
John K. Eller, IV, County Manager

Date: _____

ATTEST:

Stacy A. Moyer, Clerk to the Board

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE.]

CITY/COUNTY UTILITY COMMISSION

(SEAL)

By: _____
Courtney Driver, Utilities Director

Date: _____

ATTEST:

Sandra Keeney, City Secretary

**RESOLUTION ACCEPTING A LOAN OFFER FROM THE CLEAN WATER
REVOLVING LOAN FUND UNDER THE DIVISION OF WATER QUALITY IN
THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES IN THE AMOUNT OF \$4,473,300 TO FUND THE
IDOLS ROAD REGIONAL PUMP STATION**

WHEREAS on April 25, 2017, Forsyth County staff submitted an application to the North Carolina Department of Environmental Quality Division of Water Infrastructure for a loan from the Clean Water Revolving Loan Fund in the amount of \$4,473,300;

WHEREAS on August 1, 2017, the County was notified by the Division of Water Infrastructure that it was approved to receive funding in the amount of \$4,473,300, with a repayment term of 20 years and interest of 1.91% which requires a 2% closing fee, contingent on meeting certain conditions and timelines; and

WHEREAS the City/County Utility Commission has overseen the design and engineering of the project and has, so far, met all conditions and timelines including engineering, design, and bidding approval;

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby accepts a \$4,473,300 loan offer from the Clean Water Revolving Loan Fund under the Division of Water Quality in the North Carolina Department of Environment and Natural Resources to fund the Idols Road Regional Pump Station; and

BE IT FURTHER RESOLVED, that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute a promissory note on behalf of Forsyth County, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this the 28th day of February 2019.