

**NORTH CAROLINA
GASTON COUNTY**

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR
CONSTRUCTION OF WATER INFRASTRUCTURE**

This First Amendment to Interlocal Agreement for Construction of Water Infrastructure (hereinafter referred to as "First Amendment") is entered into this the _____ day of _____, 2020 by and between the City of Gastonia, a North Carolina municipal corporation (hereinafter referred to as "City"), the City of Bessemer City, a North Carolina municipal corporation (hereinafter referred to as "Bessemer") and Gaston County, a body politic and a subdivision of the State of North Carolina (hereinafter referred to as "County"). The above named parties to this First Amendment may also be referred to herein as a "Party" or collectively as "Parties".

WITNESSETH:

WHEREAS, pursuant to N.C.G.S. 153A-164 and 160A-461, units of local government are authorized to enter into interlocal agreements for any undertaking; and,

WHEREAS, the Parties have previously entered into that certain Interlocal Agreement for Construction of Water Infrastructure dated September 14, 2018 (hereinafter referred to as the "Agreement"); and,

WHEREAS, the City has solicited bids for the Project, as defined in the Agreement; and,

WHEREAS, the lowest responsive, responsible bid for the Project is more than the estimated costs as set forth in the Agreement; and,

WHEREAS, rather than terminate the Project and Agreement, Gastonia completed a value engineering process to reduce the total cost of the Project and the Parties have sought and secured additional funding for the Project; and,

WHEREAS, the Parties desire to amend the Agreement in order to proceed with the Project using the value engineering and additional funding that has been secured;

NOW, THEREFORE, for and in consideration of the terms, conditions and covenants contained in the Agreement and this First Amendment the Parties hereto agree as follows:

1. Paragraph 4 of the Agreement is hereby amended in its entirety to read as follows:

"4. PROJECT COSTS. The estimated costs of the Project is \$2,000,000.00. The costs of the project are to be jointly funded by City, Bessemer and the County through the use of grant funds secured or to be secured by the Parties and local match funds as follows:

Funding provided by Bessemer

NC Department of Commerce Grant	\$1,325,000.00
Golden LEAF Grant	200,000.00
Local Match Funds	158,334.00

Funding provided by the County

Local Match Funds	158,333.00
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Funding provided by the City

Local Match Funds

158,333.00

Funding Total

\$2,000,000.00

All of the above referenced grant and local funds shall be applied to the costs of the Project. In the event the funding agreements between Bessemer, NC Department of Commerce and Golden LEAF are not executed and/or all of the above referenced grant and local funds are not fully secured and suitable replacement funding is not secured, the Project shall not proceed and this Agreement shall terminate. In the event the City is unable to secure a bid on the contract for the construction of the Project for \$2,000,000.00 or less and the parties are unable to agree on a mutually satisfactory arrangement to cover the costs above \$2,000,000.00, the Project shall not proceed and this Agreement shall terminate.

Bessemer and County agree that they shall contribute their portions of the Local Match Funds for payment of the costs of the Project in the amounts and at the times required by the North Carolina Department of Commerce and/or Golden LEAF in the administration of the above referenced Grants and/or as required by the City for payments to the Contractor as required under the terms of the construction contract for the Project.

In anticipation of the proposed interconnection between the City and Bessemer and in preparation for the construction of the Project, the City has previously provided \$100,000.00 of the City's local match funds as set forth above by installing approximately 1,000 feet of 12 inch water line along N C Highway 274, a water meter vault and an 8 inch water meter. The City shall contribute the \$58,333 balance of the City's local match funds as set forth above towards the construction of a booster pump station shown on the attached Exhibit A.

The City shall act as lead agency and project manager for the construction of the Project and in the administration of all grant and local match funds. As the City incurs costs for the Project, the City shall, in cooperation with the North Carolina Department of Commerce and Golden LEAF, determine the order in which all grant and local matching funds will be drawn and used. For those grant funds awarded to Bessemer, the City shall submit invoices along with all required supporting documents to Bessemer. Bessemer shall promptly submit all such information along with required reimbursement request forms to the North Carolina Department of Commerce and/or Golden LEAF as directed by the City. All invoices submitted by the City to Bessemer shall be promptly paid to the City upon Bessemer's receipt of funds from the North Carolina Department of Commerce and/or Golden LEAF.

If at any time the City's invoices are not paid by Bessemer in a timely manner, the City may order the work on the Project stopped until such time as the City's invoices are paid. Any additional costs incurred due to such work stoppages shall be the responsibility Bessemer.

All grant funding shall be administered by Bessemer and the City in accordance with the rules, laws, regulations, terms and directives of the administering agencies that are applicable to or govern the grants set forth above. Bessemer and City hereby agree to indemnify and hold harmless each other for any costs, loss or damages either party may incur due to the other Party's failure to properly comply with the rules, laws, regulations, terms and directives of the administering agencies that are applicable to or govern said grants."

2. Except as amended herein, all other terms of the Agreement shall remain in full force and effect and are hereby ratified and confirmed by the City, Bessemer and the County.

IN WITNESS WHEREOF, the undersigned municipal corporations and governmental entities have caused this First Amendment to be executed on their behalf by their duly authorized representatives, having hereunto affixed their signatures and seals, the day and year first above written.

(Seal)

CITY OF GASTONIA

By: _____
Walker E. Reid, III
Mayor

ATTEST:

APPROVED AS TO FORM:

(Asst.) City Clerk

City Attorney

(Seal)

GASTON COUNTY

By: _____
Dr. Kim Eagle
County Manager

ATTEST:

Clerk to the Board

APPROVED AS TO FORM:

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

County Attorney

Finance Director

(Seal)

CITY OF BESSEMER CITY

By: _____
Becky S. Smith
Mayor

ATTEST:

APPROVED AS TO FORM

(Asst.) City Clerk

City Attorney

STATE OF NORTH CAROLINA
COUNTY OF GASTON

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that she is the City Clerk of the City of Gastonia and that by authority duly given and as the act of the municipal corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its City Clerk.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 2020.

Notary Public

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF GASTON

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that _____, this day, personally appeared before me this day and acknowledged that she is the Clerk of the Gaston County Board of Commissioners and that pursuant to the act of Gaston County, the foregoing instrument was signed in its name by Dr. Kim Eagle, County Manager, sealed with its corporate seal and attested by her as its Clerk.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 2020.

Notary Public

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF GASTON

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that she is the City Clerk of the City of Bessemer City and that by authority duly given and as the act of the municipal corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its City Clerk.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 2020.

Notary Public

My Commission Expires: _____