

**FORSYTH COUNTY
BOARD OF COMMISSIONERS**

**BRIEFING
DRAFT**

MEETING DATE: May 9, 2019

AGENDA ITEM NUMBER: 6

**SUBJECT: RESOLUTION AUTHORIZING THE GRANT AND EXECUTION OF A SEWER EASEMENT TO LEFEVER HOLDINGS, LLC, OVER AND ALONG A PORTION OF COUNTY OWNED PROPERTY LOCATED WITHIN TRIAD PARK, KERNERSVILLE, NC, AND ACCEPTANCE OF .01 ACRES OF REAL PROPERTY FROM LEFEVER HOLDINGS, LLC
(GENERAL SERVICES DEPARTMENT)**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

LeFever Holdings LLC (Grantee), desires to connect to the City's sewer service. The Grantee has explored this easement with the Parks and Recreation Department. Parks and Recreation staff have stated that this easement will not affect current or future park operations. The Grantee has agreed to sign a Maintenance and Release Agreement which specifies that the Grantee is responsible for the future care and maintenance of the easement. In consideration for the easement, LeFever Holdings LLC, will deed to Forsyth County a small piece of property located within Triad Park that was not transferred during a past sale. This item will also require the approval of Guilford County.

ATTACHMENTS: YES NO

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

**RESOLUTION AUTHORIZING THE GRANT AND EXECUTION OF A SEWER
EASEMENT TO LEFEVER HOLDINGS, LLC, OVER AND ALONG A PORTION
OF COUNTY OWNED PROPERTY LOCATED WITHIN TRIAD PARK,
KERNERSVILLE, NC, AND ACCEPTANCE OF .01 ACRES OF
REAL PROPERTY FROM LEFEVER HOLDINGS, LLC
(GENERAL SERVICES DEPARTMENT)**

WHEREAS LeFever Holdings, LLC, requests an easement over and along a portion of Forsyth County owned property located within Triad Park in Kernersville, NC, for the purposes of installation, use, repair, maintenance, and replacement of sewer facilities to provide service to its house, which is located adjacent to Triad Park;

WHEREAS LeFever Holdings, LLC, will submit to Forsyth County a survey containing a legal description of the proposed easement location, which will be mutually agreed upon, prior to execution of the easement;

WHEREAS LeFever Holdings, LLC, has agreed to sign a Maintenance and Release Agreement, a copy of which is attached hereto, which specifies that the Grantee is responsible for the future care and maintenance of the easement and related sewer facilities;

WHEREAS LeFever Holdings, LLC, will convey to Forsyth County 0.01 acres of property located at Berry Garden Road Kernersville, NC, known as Parcel Identification Number 6896-04-2525.00, as consideration for the easement;

WHEREAS Forsyth County staff recommends the grant and execution of a sewer easement to LeFever Holdings, LLC, for the purposes of installation, use, repair, maintenance, and replacement of sewer facilities to LeFever Holdings, LLC, and accepting as property located at Berry Garden Road Kernersville, NC, known as Parcel Identification Number 6896-04-2525.00; and

WHEREAS Forsyth County is authorized, pursuant to the provisions of N.C.G.S. 153A-176 and 160A-273, to grant easements under these circumstances and County staff has determined that the proposed consideration and other terms negotiated between the parties are reasonable;

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby authorizes the grant of an easement over and along a portion of Forsyth County owned property located within Triad Park in Kernersville, NC, to LeFever Holdings LLC, for the purposes of installation, use, repair, maintenance, and replacement of sewer facilities;

BE IT FURTHER RESOLVED, that the location of the easement will be mutually agreed to prior to the execution of the easement and that all costs related to the easement transaction will be the sole responsibility of LeFever Holdings, LLC;

BE IT FURTHER RESOLVED, that LeFever Holdings, LLC, will transfer 0.01 acres of property located at Berry Garden Road Kernersville, NC, known as Parcel Identification Number 6896-04-2525.00, to Forsyth County as consideration for the above-described easement; and

BE IT FURTHER RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, any and all necessary documents to grant the above-described easement to LeFever Holdings, LLC, and accept .01 acres of real property known as Parcel Identification Number 6896-04-2525.00, from LeFever Holdings, LLC, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

Adopted this the 9th day of May 2019.

MAINTENANCE & RELEASE AGREEMENT

This Agreement memorializes the understanding between the LeFever Holdings, LLC (“Grantee”) and Forsyth County, North Carolina and Guilford County, North Carolina (collectively referred to as the “Grantor”):

1. Grantee requests an easement over and along a portion of Grantor’s property located within Triad Park in Kernersville, N.C. (the “Premises”) for the purposes of installation, use, repair, maintenance and replacement of sewer facilities.
2. Grantor granted permission for Grantee to install an easement over and long a portion of Grantor’s property by resolution adopted by the Forsyth County Board of Commissioners at their INSERT DATE meeting and by the Guilford County Board of Commissioners at their INSERT DATE meeting.
3. Grantee further agrees that all costs associated with the installation, use, repair, maintenance and replacement of sewer facilities is the sole responsibility of the Grantee. Grantee will install the sewer facilities within a concrete encasement so as to protect it from future Grantor vehicular traffic that may drive over and upon the Premises.
4. Once Grantee’s sewer facilities have been installed, Grantee will satisfactorily restore the Premises to its prior condition, will leave the Premises in as good condition and order as found or will pay for any costs required to restore the Premises to its prior condition.
5. Grantee will convey to Forsyth County 0.01 acres of property located at Berry Garden Road Kernersville, N.C., known informally as Parcel Identification Number 6896-04-2525.00, for \$1.00 as payment for the easement prior to installation of its sewer facilities.
6. Grantee acknowledges that the County makes no representations or promises with respect to or affecting the condition of the Premises, that the County makes no warranties of acceptability or fitness for a particular purpose.
7. The undersigned has inspected the Premises, is familiar with the physical condition of it and enters into this Agreement on an independent investigation and at its own risk in reliance upon an observation and examination of the Premises.
8. Grantee accepts responsibility and liability for the actions and omissions of all contractors, customers and members.
9. Grantee hereby agrees to indemnify and hold the Grantor harmless from any and all claims and demands of any person or persons arising out of or based upon personal injuries, bodily injuries, property damage, and/or death suffered by such person or persons resulting directly from any defect in the Premises or any act or negligence by Grantee while Grantee or its contractors are engaged in the aforementioned use of the Premises.
10. Grantee hereby releases the County as well as its agents and employees, from any and all duties and obligations and from all claims, demands, actual or

consequential damages of any nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, that Grantee may have against the Grantor either in connection with the use by Grantee of the Premises, or the subject matter of this Agreement.

11. The undersigned has the right and the authority to make and execute this Agreement on behalf of Grantee.

LeFever Holdings, LLC

By _____
Name/Signature

Name/Printed and Title
Date _____

Forsyth County

By _____
Name/Signature

Name/Printed and Title (Seal)
Date _____

Guilford County

By _____
Name/Signature

Name/Printed and Title (Seal)
Date _____

