

**AMENDMENT 1 TO LOAN AGREEMENT WW080200
CHARLOTTE COUNTY**

This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and CHARLOTTE COUNTY, FLORIDA, (the “Local Government”) existing as a local governmental agency under the laws of the State of Florida.

WITNESSETH:

WHEREAS, the Department and the Local Government entered into a Clean Water State Revolving Fund Loan Agreement, Number WW080200, authorizing a Loan amount of \$16,082,319, excluding Capitalized Interest; and

WHEREAS, the Local Government is entitled to additional financing of \$6,790,000, excluding Capitalized Interest; and

WHEREAS, revised provisions for audit and monitoring are needed; and

WHEREAS, a Financing Rate must be established for the additional financing amount awarded in this amendment; and

WHEREAS, a Loan Service Fee must be estimated for the additional financing; and

WHEREAS, the Semiannual Loan Payment amount needs revision to reflect an adjustment in the Loan amount; and

WHEREAS, the Project costs need adjustment to reflect revised estimates; and

WHEREAS, the definition of Project needs revision to include another contract.

NOW, THEREFORE, the parties hereto agree as follows:

1. Subsection 1.01(18) of the Agreement is deleted and replaced as follows:

“Project” shall mean the works financed by this Loan and shall consist of furnishing all labor, materials, and equipment to construct the collection and transmission project in accordance with the plans and specifications accepted by the Department for the following contracts:

- (a) “Vacuum Sewer Zones A and B”; and
- (b) “Vacuum Collection Station”; and
- (c) “East and West Spring Lake Wastewater Expansion, Contract C”. This contract includes installation of vacuum valve pit assemblies, air intake terminals and appurtenances.

The Project is in agreement with the planning documentation accepted by the Department effective March 18, 2014. A Florida Categorical Exclusion Notification was published on January 28, 2010 and no adverse comments were received.

2. Section 2.03 of the Agreement is deleted and replaced as follows:

The Local Government agrees to the following audit and monitoring requirements.

Funds provided under this Agreement have been identified as second-tier monies under the Federal Clean Water Act which are identified as state funds whose use is federally protected.

(1) The financial assistance authorized pursuant to this Loan Agreement consists of the following:

State Resources Awarded to the Local Government Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:					
State Program Number	Funding Source	CSFA Number	CSFA Title or Fund Source Description	Funding Amount	State Appropriation Category
Original Agreement	Wastewater Treatment and Stormwater Management TF	37.077	Statewide Surface Water Restoration and Wastewater Projects	\$22,872,319	140131

(2) Audits.

(a) In the event that the Local Government expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such Local Government, the Local Government must have a State single audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the Local Government shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

(b) In connection with the audit requirements addressed in the preceding paragraph (a); the Local Government shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

(c) If the Local Government expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. The Local Government shall inform the Department of findings and

recommendations pertaining to the State Revolving Fund in audits conducted by the Local Government in which the \$500,000 threshold has not been met. In the event that the Local Government expends less than \$500,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Local Government's resources obtained from other than State entities).

(d) The Local Government is hereby advised that the Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a Local Government should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen>.

(e) The Local Government should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

(3) Report Submission.

(a) Copies of financial reporting packages shall be submitted by or on behalf of the Local Government directly to each of the following:

(i) The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General
3900 Commonwealth Boulevard, MS 40
Tallahassee, Florida 32399-3123

Electronically:

FDEPSingleAudit@dep.state.fl.us

(ii) The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

(iii) Copies of reports or management letters shall be submitted by or on behalf of the Local Government directly to the Department of Environmental Protection at the following address:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General
3900 Commonwealth Boulevard, MS 40
Tallahassee, Florida 32399-3123

Electronically:

FDEPSingleAudit@dep.state.fl.us

(a) Any reports, management letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

(b) Local Governments, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Local Government in correspondence accompanying the reporting package.

(4) Record Retention.

The Local Government shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date of the final amendment, and shall allow the Department, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The Local Government shall ensure that working papers are made available to the Department, or its designee, Chief Financial Officer, or Auditor General upon request for a period of five years from the date of the final amendment, unless extended in writing by the Department.

(5) Monitoring.

In addition to reviews of audits conducted in accordance with Section 215.97, F.S., as revised monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures. By entering into this Agreement, the Local Government agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the Local Government is appropriate, the Local Government agrees to comply with any additional instructions provided by the Department to the Local Government regarding such audit. The Local Government further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

3. Section 8.02 of the Agreement is deleted and replaced as follows:

Books, records, reports, engineering documents, contract documents, and papers shall be available to the authorized representatives of the Department for inspection at any reasonable time after the Local Government has received a disbursement and until five years after the final amendment date.

4. Additional financing in the amount of \$6,790,000, excluding Capitalized Interest, is hereby awarded to the Local Government.

5. A Financing Rate of 0.62 percent per annum is established for the additional financing amount awarded in this amendment. Individually, the interest rate is 0.31 percent per annum and the Grant Allocation Assessment rate is 0.31 percent per annum. However, if this amendment is not executed by the Local Government and returned to the Department before January 1, 2016, the Financing Rate may be adjusted.

6. The estimated principal amount of the Loan is hereby revised to \$23,008,219, which consists of \$22,872,319 authorized for disbursement to the Local Government and \$135,900 of Capitalized Interest. This total consists of the following:

(a) Original Agreement of \$16,193,719, including \$16,082,319 authorized for disbursement to the Local Government and \$111,400 of Capitalized Interest, at a Financing Rate of 0.72 percent per annum (the interest rate is 0.358 percent per annum and the Grant Allocation Assessment rate is 0.358 percent per annum); and

(b) Amendment 1 of \$6,790,000, including \$6,790,000 authorized for disbursement to the Local Government and \$24,500 of Capitalized Interest, at a Financing Rate of 0.62 percent per annum (the interest rate is 0.31 percent per annum and the Grant Allocation Assessment rate is 0.31 percent per annum).

7. An additional Loan Service Fee in the amount of \$135,800, for a total of \$457,446, is hereby estimated. The fee represents two percent of the Loan amount excluding Capitalized Interest; that is, two percent of \$22,872,319.

8. The Semiannual Loan Payment amount is hereby revised and shall be in the amount of \$628,867. Such payments shall be paid to, and must be received by the Department beginning on August 15, 2017 and semiannually thereafter on February 15 and August 15 of each year until all amounts due hereunder have been fully paid. Until this Agreement is further amended, each Semiannual Loan Payment will be proportionally applied toward repayment of the amounts owed on each incremental Loan amount at the date such payment is due.

The Semiannual Loan Payment amount is based on the total amount owed of \$23,465,665, which consists of the Loan principal plus the estimated Loan Service Fee.

9. Section 10.06 of the Agreement is deleted and replaced as follows:

The Local Government and the Department acknowledge that the actual Project costs have not been determined as of the effective date of this agreement. Project cost adjustments

may be made as a result of Project changes agreed upon by the Department. Capitalized Interest will be recalculated based on actual dates and amounts of Loan disbursements. If the Local Government receives other governmental financial assistance for this Project, the costs funded by such other governmental assistance will not be financed by this Loan. The Department shall establish the final Project costs after its final inspection of the Project records. Changes in Project costs may also occur as a result of an audit.

Funds disbursed in accordance with Section 4.08 of this Agreement shall be disbursed in the order in which they have been obligated without respect to budgetary line item estimates. All disbursements shall be made from the original Loan amount until that amount has been disbursed; the Financing Rate established for the original Loan amount shall apply to such disbursements for the purpose of determining the associated Capitalized Interest and repayment amount. The Financing Rate established for any additional increment of Loan financing shall be used to determine the Capitalized Interest and repayment amount associated with the funds disbursed from that increment.

The estimated Project costs are revised as follows:

CATEGORY	COST(\$)
Design	300,000
Construction and Demolition	20,520,290
Contingencies	2,052,029
SUBTOTAL (Disbursable Amount)	22,872,319
Capitalized Interest	135,900
TOTAL (Loan Principal Amount)	23,008,219

10. All other terms and provisions of the Loan Agreement shall remain in effect.

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This Amendment 1 to Loan Agreement WW080200 shall be executed in two or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Department has caused this Agreement to be executed on its behalf by the Secretary or Designee and the Local Government has caused this Agreement to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this Agreement shall be as set forth below by the Department.

for
CHARLOTTE COUNTY

County Administrator

Attest:

Approved as to form and legal sufficiency:

County Clerk

County Attorney

SEAL

APPROVED AND ACCEPTED BY THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION.

Secretary or Designee

Date