

**RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF THE CLEAN WATER STATE REVOLVING FUND AMENDMENT 1 TO THE COUNTY'S LOAN AGREEMENT (WWG12082805) WITH THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR CONSTRUCTION OF THE PONTE VEDRA MUNICIPAL SERVICE DISTRICT VACUUM SEWER PROJECT IN THE AMOUNT OF \$4,825,490.00, AND AUTHORIZE THE USE OF PREPAID ASSESSMENT REVENUES FOR DIRECT PAYMENT TO JEA FOR CONSTRUCTION COSTS.**

**WHEREAS,** The Board Of County Commissioners Of St. Johns County, Florida has previously entered into an agreement with the State of Florida Department Of Environmental Protection for a Clean Water State Revolving Pre-Construction Loan in the amount of \$250,000.00; and

**WHEREAS,** St. Johns County has applied for and received approval of additional funding to the County's pre-construction loan in the amount of \$4,825,490.00 to fund the County's portion of the construction of the vacuum sewer project; and

**WHEREAS,** The previous pre-construction agreement entered into with the State Of Florida Department Of Environmental Protection in the amount of \$250,000, the additional loan amount of \$4,825,490.00 plus capitalized interest establishes the total loan obligation at \$5,209,590.00 to the County.


**NOW THEREFORE, BE IT RESOLVED** By The Board Of County Commissioners Of St. Johns County, Florida As Follows:

SECTION 1. The Board Of County Commissioners authorizes the Chair, the Clerk Of Courts and the County Attorney to execute and deliver the clean water state revolving fund amendment 1 to loan agreement WWG12082805P in substantially the form attached hereto as Exhibit A.

SECTION 2. The Board Of County Commissioners authorizes the use of all pre-paid assessment revenues for direct payment of the County's construction obligations incurred to JEA for the vacuum sewer project.

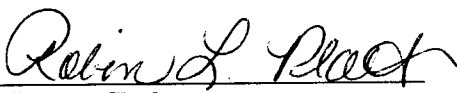
**PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, STATE OF FLORIDA, THIS 6th DAY OF JANUARY, 2004**

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

By:   
Karen Stern, Chairman

ATTEST: Cheryl Strickland, Clerk

RENDITION DATE 1/8/2004

By:   
Deputy Clerk

**CLEAN WATER STATE REVOLVING FUND  
AMENDMENT 1 TO LOAN AGREEMENT WWG12082805P  
ST. JOHNS COUNTY, FLORIDA**

This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and ST. JOHNS COUNTY, FLORIDA, (Local Government) existing as a local government 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 WWG12082805P, authorizing a Loan amount of \$250,000, excluding Capitalized Interest; and

WHEREAS, the Local Government is entitled to additional financing for Construction Related Costs in the amount of \$4,825,490, excluding Capitalized Interest; and

WHEREAS, an interest rate and a Grant Allocation Assessment rate are to be established for the additional financing amount awarded in this amendment; and

WHEREAS, a Loan Service Fee shall be paid by the Local Government for the additional financing provided by this amendment; and

WHEREAS, the Project costs, Loan repayment schedule, Project schedule, certain definitions, and other provisions of the Agreement need revision and several provisions need to be added to address financing of Construction Related Costs; and

WHEREAS, revised auditing and monitoring provisions are needed.

NOW, THEREFORE, the parties hereto agree as follows:

1. Subsection 1.01(17) of the Agreement is revised as follows:

(17) "Project" shall mean the works financed by this amendment consisting of furnishing all labor, materials, and equipment to construct the St. Johns County Collection & Transmission Facilities in accordance with the plans and specifications accepted by the Department for the Ponte Vedra Wastewater System Improvements contract.

The Project is in agreement with the Ponte Vedra Municipal Services District (MSD) Sewer System Improvements Facilities Plan, dated November 2002. Approval of this Project is provided by the Florida Categorical Exclusion Notification dated March 21.2003.

2. Subsection 2.03(1) of the Agreement is deleted and replaced as follows.

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

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

Federal Resources, Including State Match, Awarded to the Recipient Pursuant to this Agreement Consist of the Following: _____
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**EXHIBIT A**

Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
CS120001-030	EPA	66.458	Capitalization Grants for State Revolving Funds	\$5,075,490	140131

3. Section 4.01 PROJECT CHANGES is revised to add the following:

Project changes prior to bid opening shall be made by addendum to plans and specifications. Changes after bid opening shall be made by change order. The Local Government shall submit all addenda and all change orders to the Department. Any change order which increases the contract amount by more than one hundred thousand dollars (\$100,000) or which alters the approved Project scope or which involves a procurement method that is not consistent with the approved method or which involves deletion or substantive modification of any requirement of Chapter 62.503, Florida Administrative Code, requires an eligibility determination by the Department. After execution of all construction, equipment and materials contracts, the Project contingency may be reduced.

4. The following two sections are added to the Agreement:

4.03. PERMITS AND APPROVALS.

The Local Government shall have obtained, prior to the Department's authorization to award construction contracts, all permits and approvals required for construction of the Project or portion of the Project funded under this Agreement.

4.04. ENGINEERING SERVICES.

A professional engineer, registered in the State of Florida, shall be employed by, or under contract with, the Local Government to oversee construction.

5. Section 4.08 LOAN DISBURSEMENTS is revised to add the following:

Disbursements shall be made directly to the Local Government for reimbursement of the incurred construction costs and related services. Disbursements for materials, labor, or services shall be made upon receipt of the following:

(1) A completed disbursement request form signed by the Authorized Representative. Such requests must be accompanied by sufficiently itemized summaries of the materials, labor, or services to identify the nature of the work performed; the cost or charges for such work; and the person providing the service or performing the work.

(2) A certification signed by the Authorized Representative as to the current estimated costs of the Project; that the materials, labor, or services represented by the invoice have been satisfactorily purchased, performed, or received and applied to the project; that all funds received to date have been applied toward completing the Project; and that under the terms and provisions of the contracts, the Local Government is required to make such payments.

(3) A certification by the engineer responsible for overseeing construction stating that equipment, materials, labor and services represented by the construction invoices have been satisfactorily purchased, or received, and applied to the Project in accordance with construction contract documents; stating that payment is in accordance with construction contract provisions; stating that construction, up to the point of the requisition, is in compliance with the contract documents; and identifying all additions or deletions to the Project which have altered the Project's performance standards, scope, or purpose since the issue of the Department construction permit.

(4) Such other certificates or documents by engineers, attorneys, accountants, contractors, or suppliers as may reasonably be required by the Department.

6. The following article is added to the Agreement:

#### ARTICLE IX - CONSTRUCTION CONTRACTS AND INSURANCE

##### 9.01. AUTHORIZATION TO AWARD CONSTRUCTION CONTRACTS.

The following documentation is required to receive the Department's authorization to award construction contracts:

- (1) Proof of advertising.
- (2) Award recommendation, bid proposal, and bid tabulation (certified by the responsible engineer).
- (3) Certified copy of the Local Government's tentative award resolution.
- (4) Certification of compliance with the conditions of the Department's approval of competitively or non-competitively negotiated procurement, if applicable.

##### 9.02. SUBMITTAL OF CONSTRUCTION CONTRACT DOCUMENTS.

After the Department's authorization to award construction contracts has been received, the Local Government shall submit contractor insurance certifications and notices to proceed with construction.

##### 9.03. INSURANCE REQUIRED.

The Local Government shall cause the Project, as each part thereof is certified by the engineer responsible for overseeing construction as completed, and the Sewer System (hereafter referred to as "Revenue Producing Facilities") to be insured by an insurance company or companies licensed to do business in the State of Florida against such damage and destruction risks as are customary for the operation of Revenue Producing Facilities of like size, type and location to the extent such insurance is obtainable from time to time against any one or more of such risks.

The proceeds of insurance policies received as a result of damage to, or destruction of, the Project or the other Revenue Producing Facilities, shall be used to restore or replace damaged portions of the facilities. If such proceeds are insufficient, the Local Government shall provide additional funds to restore or replace the damaged portions of the facilities. Repair, construction or replacement shall be promptly completed.

7. Additional financing in the amount of \$4,825,490, excluding Capitalized Interest, is hereby awarded to the Local Government.
8. A combined rate of interest and Grant Allocation Assessment of 2.95 percent per annum is established for the additional financing amount awarded in this amendment. Individually, the interest rate is 1.475 percent per annum and the Grant Allocation Assessment rate is 1.475 percent per annum.
9. The estimated principal amount of the Loan is hereby revised to \$5,209,590, which consists of \$5,075,490 authorized for disbursement to the Local Government and \$134,100 of Capitalized Interest at a combined rate of interest and Grant Allocation Assessment of 2.95 percent per annum (the interest rate is 1.475 percent per annum and the Grant Allocation Assessment rate is 1.475 percent per annum).

10. An additional Loan Service Fee in the amount of \$96,510, for a total of \$101,510, is hereby assessed. The fee represents two percent of the Loan amount excluding Capitalized Interest; that is, two percent of \$5,075,490. Estimated Loan Service Fee capitalized interest for the fee amount assessed to date is \$5,440.

11. Section 10.05 REPAYMENT SCHEDULE is revised as follows:

The Semiannual Loan Payment amount shall be in the amount of \$176,907. Such payments shall be received by the Department beginning on April 15, 2006, and semiannually thereafter on October 15 and April 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, after deduction of the Loan Service Fee is complete, 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 \$5,316,540, which consists of the Loan principal plus the Loan Service Fee with its capitalized interest.

12. Section 10.06 PROJECT RELATED COSTS is revised as follows:

The Local Government and the Department acknowledge that the actual cost of the Project has not been determined. Project cost adjustments may be made as a result of mutually agreed upon Project changes. An additional Loan Repayment Reserve Account amount will be required for any additional financing provided by amendment to the Agreement. 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 the Local Government's Project audit or a Department audit.

Funds disbursed in accordance with 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 first from the original Loan amount until that amount has been disbursed. The combined rate of interest and Grant Allocation Assessment established for the original Loan amount shall apply to such disbursements for the purpose of determining the associated Capitalized Interest and repayment amounts. The combined rate of interest and Grant Allocation Assessment established for any additional increment of Loan funds shall be used to determine the Capitalized Interest and repayment amounts associated with the funds disbursed from that increment.

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Estimated costs are as follows:

<u>CATEGORY</u>	<u>COST(\$)</u>
Administrative Allowance	33,000
Planning Allowance	163,000
Engineering Allowance	54,000
Construction and Demolition	7,642,247
Contingencies	382,112
Less HUD and County funds	<u>-3,198,869</u>
SUBTOTAL (Disbursable Amount)	5,075,490
Capitalized Interest	<u>134,100</u>
TOTAL (Loan Principal Amount)	5,209,590

13. Subsections 10.07 (5), (6), and (7) of the schedule are deleted and replaced and additional subsections are added as follows:
- (5) Initiation of Project construction is scheduled for November 15, 2003.
  - (6) Completion of Project construction is scheduled for October 15, 2005.
  - (7) Unless this Agreement is revised by amendment, establish the Loan Repayment Reserve Account and deposit \$353,814 no later than October 15, 2005. The Local Government shall use its own funds for the deposit.
  - (8) The Loan Debt Service Account shall be established and Monthly Loan Deposits shall begin no later than October 15, 2005.
  - (9) The initial annual certification required under Subsection 2.01(10) of the Agreement shall be due January 15, 2006. Thereafter the certification shall be submitted no later than September 30 of each year until the final Semiannual Loan Payment is made.
  - (10) The first Semiannual Loan Payment in the amount of \$176,907 shall be due April 15, 2006.
14. All other terms and provisions of the Loan Agreement shall remain in effect.

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This Amendment 1 to Loan Agreement WWG12082805P shall be executed in three 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 amendment to the Loan Agreement to be executed on its behalf by the Secretary of the Department and the Local Government has caused this amendment to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this amendment shall be as set forth below by the Secretary of the Department.

for  
**ST. JOHNS COUNTY, FLORIDA**

\_\_\_\_\_  
Chairman, Board of County Commissioners



I attest that this amendment complies with  
Section 2.02 of the Agreement and as to form  
and legality.

Attest

\_\_\_\_\_  
County Clerk  
SEAL

\_\_\_\_\_  
County Attorney

for  
**STATE OF FLORIDA**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date