

RESOLUTION NO. 2013- 218

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING THE STATE REVOLVING LOAN PROGRAM, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY

WHEREAS, Chapter 403, Florida Statutes, as amended, provides for state revolving loan program loans to local government agencies to finance the construction of water facilities; and

WHEREAS, the Board of County Commissioners of St. Johns County, Florida, during a regular Board meeting held on January 15, 2013 approved Resolutions 2013-14 and 2013-15 authorizing the application for the SRF loan, establishing pledged revenues and designating authorized representatives; and

WHEREAS, St. Johns County, Florida, has received a loan agreement with the Department of Environmental Protection under the State Revolving Fund to finance various water improvement projects within the County's Ponte Vedra utility system; and

WHEREAS, the COUNTY has reviewed the terms, and conditions of the above-referenced Agreement attached hereto, and incorporated herein; and

WHEREAS, the COUNTY has determined that accepting the terms of the Agreement, attached hereto, and incorporated herein, will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. Authority to Approve.

The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of Agreement between St. Johns County and Florida Department of Environmental Protection and authorizes the County Administrator to execute this Agreement on behalf of St. Johns County.

Section 3. Correction of Errors.

To the extent that there are scrivener's/typographical errors noted within the above-noted Agreement, the Agreement may be revised, in order to correct such errors, without the necessity of further action by the Board.

Section 4. Effective Date.

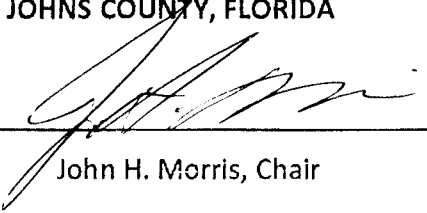
This Resolution shall be effective upon its execution.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County,

Florida, this 1st day of October, 2013.

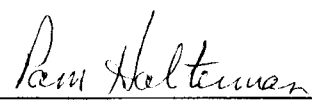
**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: _____

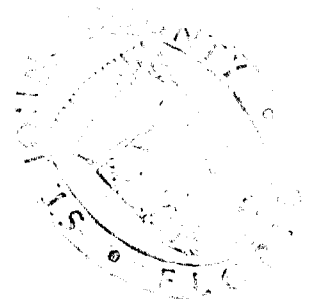

John H. Morris, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: _____


Deputy Clerk

RENDITION DATE 10/3/13



**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

AND

ST. JOHNS COUNTY, FLORIDA

**DRINKING WATER STATE REVOLVING FUND
CONSTRUCTION LOAN AGREEMENT**

DW550110

Florida Department of Environmental Protection
State Revolving Fund Program
Bob Martinez Center
2600 Blair Stone Road, MS 3505
Tallahassee, Florida 32399-2400

DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT

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**DRINKING WATER STATE REVOLVING FUND
CONSTRUCTION LOAN AGREEMENT
DW550110**

THIS AGREEMENT is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and ST. JOHNS COUNTY, FLORIDA, (Project Sponsor) existing as a local governmental agency under the laws of the State of Florida.

WITNESSETH:

WHEREAS, pursuant to Section 403.8532, Florida Statutes, the Department is authorized to make loans to finance or refinance the construction of public water systems, the planning and design of which have been reviewed by the Department; and

WHEREAS, funding is provided from the State Revolving Fund program repayments and interest, which are Federally protected but which are subject to state audit requirements; and

WHEREAS, the Project Sponsor has made application for the financing of the Project, and the Department has determined that such Project meets all requirements for a loan.

NOW, THEREFORE, in consideration of the Department loaning money to the Project Sponsor, in the principal amount and pursuant to the covenants hereinafter set forth, it is agreed as follows:

ARTICLE I - DEFINITIONS

1.01. WORDS AND TERMS.

Words and terms used herein shall have the meanings set forth below:

- (1) "Agreement" or "Loan Agreement" shall mean this construction loan agreement.
- (2) "Authorized Representative" shall mean the official of the Project Sponsor authorized by ordinance or resolution to sign documents associated with the Loan.
- (3) "Capitalized Interest" shall mean the interest accruing on Loan proceeds from the time of disbursement until six months before the first Semiannual Loan Payment is due. Capitalized Interest is financed as part of the Loan principal.
- (4) "Depository" shall mean a bank or trust company, having a combined capital and unimpaired surplus of not less than \$50 million, authorized to transact commercial banking or savings and loan business in the State of Florida and insured by the Federal Deposit Insurance Corporation.

(5) "Gross Revenues" shall mean all income or earnings received by the Project Sponsor from the ownership or operation of its St. Johns County Ponte Vedra Utilities Water and Sewer Systems, including investment income, all as calculated in accordance with generally accepted accounting principles. Gross Revenues shall not include proceeds from the sale or other disposition of any part of the Water or Sewer System, condemnation awards or proceeds of insurance, except use and occupancy or business interruption insurance, received with respect to the Water or Sewer System.

(6) "Loan" shall mean the amount of money to be loaned pursuant to this Agreement and subsequent amendments.

(7) "Loan Application" shall mean the completed form which provides all information required to support obtaining construction loan financial assistance.

(8) "Loan Debt Service Account" shall mean an account, or a separately identified component of a pooled cash or liquid account, with a Depository established by the Project Sponsor for the purpose of accumulating Monthly Loan Deposits and making Semiannual Loan Payments.

(9) "Loan Service Fee" shall mean an origination fee which shall be paid to the Department by the Project Sponsor.

(10) "Monthly Loan Deposit" shall mean the monthly deposit to be made by the Project Sponsor to the Loan Debt Service Account.

(11) "Operation and Maintenance Expense" shall mean the costs of operating and maintaining the Water and Sewer Systems determined pursuant to generally accepted accounting principles, exclusive of interest on any debt payable from Gross Revenues, depreciation, and any other items not requiring the expenditure of cash.

(12) "Pledged Revenues" shall mean the specific revenues pledged as security for repayment of the Loan and shall be the Gross Revenues derived yearly from the operation of the Water and Sewer Systems after payment of the Operation and Maintenance Expense and the satisfaction of all yearly payment obligations on account of the Senior Revenue Obligations and any senior obligations issued pursuant to Section 7.02 of this Agreement.

(13) "Project" shall mean the works financed by this Loan and shall consist of furnishing all labor, materials, and equipment to construct the source and distribution project in accordance with the plans and specifications accepted by the Department for the following contracts:

- (a) "Inlet Beach WTP Upgrades – Production Well No. 1 Rehabilitation"; and
- (b) "Marsh Landing WTP High Service Pumps Upgrade"; and
- (c) "Plantation Water Treatment Plant High Service Pump Station Improvements"; and
- (d) "Water Meter Replacement Project".

The Project is in agreement with the Water Facilities Plan, dated March 8, 2013. A Florida Categorical Exclusion Notification was published on March 15, 2013 and no adverse comments were received.

(14) "Semiannual Loan Payment" shall mean the payment due from the Project Sponsor to the Department at six-month intervals.

(15) "Senior Revenue Obligations" shall mean the following debt obligations:

(a) St. Johns County, Florida, Ponte Vedra Utility System Revenue Bonds, Series 2006, issued in the amount of \$30,920,000, pursuant Resolution No. 2006-21, amended and restated in its entirety by Resolution No. 2007-360; and

(b) St. Johns County, Florida, Ponte Vedra Utility System Revenue Bonds, Series 2007, issued in the amount of \$30,620,000, Resolution No. 2007-360; and

(c) Additional bonds issued on a parity with the bonds identified above pursuant to Section 6.02 of Resolution No. 2007-360; and

(d) Any refunding bonds issued to refund the obligations identified above provided such bonds shall not increase annual debt service during the repayment period of this Loan.

(16) "Sewer System" shall mean all facilities owned by the Project Sponsor for collection, transmission, treatment and reuse of wastewater and its residuals.

(17) "St. Johns County Ponte Vedra Utility System" shall mean the Water and Sewer Systems".

(18) "Water System" shall mean all facilities owned by the Project Sponsor for supplying and distributing water for residential, commercial, industrial, and governmental use.

1.02. CORRELATIVE WORDS.

Words of the masculine gender shall be understood to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural and the word "person" shall include corporations and associations, including public bodies, as well as natural persons.

ARTICLE II - WARRANTIES, REPRESENTATIONS AND COVENANTS

2.01. WARRANTIES, REPRESENTATIONS AND COVENANTS.

The Project Sponsor warrants, represents and covenants that:

(1) The Project Sponsor has full power and authority to enter into this Agreement and to comply with the provisions hereof.

(2) The Project Sponsor currently is not the subject of bankruptcy, insolvency, or reorganization proceedings and is not in default of, or otherwise subject to, any agreement or any law, administrative regulation, judgment, decree, note, resolution, charter or ordinance which would currently restrain or enjoin it from entering into, or complying with, this Agreement.

(3) There is no material action, suit, proceeding, inquiry or investigation, at law or in equity, before any court or public body, pending or, to the best of the Project Sponsor's knowledge, threatened, which seeks to restrain or enjoin the Project Sponsor from entering into or complying with this Agreement.

(4) All permits, real property interests, and approvals required as of the date of this Agreement have been obtained for construction and use of the Project. The Project Sponsor knows of no reason why any future required permits or approvals are not obtainable.

(5) The Project Sponsor shall undertake the Project on its own responsibility, to the extent permitted by law.

(6) To the extent permitted by law, the Project Sponsor shall release and hold harmless the State, its officers, members, and employees from any claim arising in connection with the Project Sponsor's actions or omissions in its planning, engineering, administrative, and construction activities financed by this Loan or its operation of the Project.

(7) All Project Sponsor representations to the Department, pursuant to the Loan Application and Agreement, were true and accurate as of the date such representations were made. The financial information delivered by the Project Sponsor to the Department was current and correct as of the date such information was delivered. The Project Sponsor shall comply with Chapter 62-552, Florida Administrative Code, and all applicable State and Federal laws, rules, and regulations which are identified in the Loan Application or Agreement. To the extent that any assurance, representation, or covenant requires a future action, the Project Sponsor shall take such action as is necessary for compliance.

(8) The Project Sponsor shall maintain records using generally accepted accounting principles established by the Governmental Accounting Standards Board. As part of its bookkeeping system, the Project Sponsor shall keep accounts of the Water and Sewer Systems separate from all other accounts and it shall keep accurate records of all revenues, expenses, and expenditures relating to the Water and Sewer Systems, and of the Pledged Revenues, Loan disbursement receipts, and Loan Debt Service Account.

(9) In the event the anticipated Pledged Revenues are shown by the Project Sponsor's annual budget to be insufficient to make the Semiannual Loan Payments for such Fiscal Year when due, the Project Sponsor shall include in such budget other legally available non-ad valorem funds which will be sufficient, together with the Pledged Revenues, to make the Semiannual Loan Payments. Such other legally available non-ad valorem funds shall be budgeted in the regular annual governmental budget and designated for the purpose provided by this Subsection, and the Project Sponsor shall collect such funds for application as provided herein. The Project Sponsor shall notify the Department immediately in writing of any such

budgeting of other legally available non-ad valorem funds. Nothing in this covenant shall be construed as creating a pledge, lien, or charge upon any such other legally available non-ad valorem funds; requiring the Project Sponsor to levy or appropriate ad valorem tax revenues; or preventing the Project Sponsor from pledging to the payment of any bonds or other obligations all or any part of such other legally available non-ad valorem funds.

(10) Each year, beginning three months before the first Semiannual Loan Payment and ending with the year during which the final Loan repayment is made, the Project Sponsor's Authorized Representative or its chief financial officer shall submit, pursuant to the schedule established in Section 10.07, a certification that: (a) Pledged Revenue collections satisfy the rate coverage requirement; (b) the Loan Debt Service Account contains the funds required; and (c) insurance in effect for the facilities generating the Pledged Revenues adequately covers the customary risks to the extent that such insurance is available.

(11) Pursuant to Section 216.347 of the Florida Statutes, the Project Sponsor shall not use the Loan proceeds for the purpose of lobbying the Florida Legislature, the Judicial Branch, or a State agency.

(12) The Project Sponsor agrees to construct the Project in accordance with the Project schedule. Delays incident to strikes, riots, acts of God, and other events beyond the reasonable control of the Project Sponsor are excepted. If for any reason construction is not completed as scheduled, there shall be no resulting diminution or delay in the Semiannual Loan Payment or the Monthly Loan Deposit.

(13) The Project Sponsor covenants that this Agreement is entered into for the purpose of constructing, refunding, or refinancing the Project which will in all events serve a public purpose. The Project Sponsor covenants that it will, under all conditions, complete and operate the Project to fulfill the public need.

2.02. LEGAL AUTHORIZATION.

Upon signing this Agreement, the Project Sponsor's legal counsel hereby expresses the opinion, subject to laws affecting the rights of creditors generally, that:

(1) This Agreement has been duly authorized by the Project Sponsor and shall constitute a valid and legal obligation of the Project Sponsor enforceable in accordance with its terms upon execution by both parties; and

(2) This Agreement specifies the revenues pledged for repayment of the Loan, and the pledge is valid and enforceable.

2.03. AUDIT AND MONITORING REQUIREMENTS.

The Project Sponsor 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 Project Sponsor Pursuant to this Agreement Consist of the Following:					
State Program Number	Funding Source	CSFA Number	CSFA Title or Fund Source Description	Funding Amount	State Appropriation Category
Original Agreement	Drinking Water Revolving Loan TF	37.076	Drinking Water Facility Construction	\$6,742,410	140129

(2) Audits.

(a) In the event that the Project Sponsor expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such Project Sponsor, the Project Sponsor must have a State single or project-specific 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 Project Sponsor 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 Project Sponsor 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 Project Sponsor 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 Project Sponsor shall inform the Department of findings and recommendations pertaining to the State Revolving Fund in audits conducted by the Project Sponsor in which the \$500,000 threshold has not been met. In the event that the Project Sponsor 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 Project Sponsor's resources obtained from other than State entities).

(d) For information regarding the Florida Catalog of State Financial Assistance (CSFA), a Project Sponsor 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.state.fl.us/audgen>.

(3) Report Submission.

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

(i) The Department at the following address:

Valerie Peacock, Audit Director
Office of the Inspector General
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 41
Tallahassee, Florida 32399-3123

(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 Project Sponsor directly to the Department of Environmental Protection at the following address:

Valerie Peacock, Audit Director
Office of the Inspector General
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 41
Tallahassee, Florida 32399-3123

(b) 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.

(c) Project Sponsors, 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 Project Sponsor in correspondence accompanying the reporting package.

(4) Project-Specific Audit.

Within 12 months after the amendment establishing final Project costs, the Project Sponsor shall submit to the Department a Project-specific audit report for the Loan related revenues and expenditures. The audit shall address Loan disbursements received, Project expenditures, and compliance with Loan Agreement covenants. The Project Sponsor shall cause the auditor to notify the Department immediately if anything comes to the auditor's attention during the examination of records that would constitute a default under the Loan Agreement. The audit findings shall set aside or question any costs that are unallowable under Chapter 62-552, Florida Administrative Code. A final determination of whether such costs are allowed shall be made by the Department.

(5) Record Retention.

The Project Sponsor shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow the Department, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The Project Sponsor shall ensure that audit 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 the audit report is issued, unless extended in writing by the Department.

The Project Sponsor 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.

The Project Sponsor should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

In addition, the Project Sponsor agrees to complete and submit the Certification of Applicability to Single Audit Act Reporting, Attachment A, attached hereto and made a part hereof, within four (4) months following the end of the Project Sponsor's fiscal year. Attachment A should be submitted to the Department's Grants Development and Review Manager at 3900 Commonwealth Boulevard, Mail Station 93, Tallahassee, Florida 32399-3000. The Grants Development and Review Manager is available to answer any questions at (850) 245-2361.

(6) 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 Project Sponsor 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 Project Sponsor is appropriate, the Project Sponsor agrees to comply with any additional instructions provided by the Department to the

Project Sponsor regarding such audit. The Project Sponsor further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

ARTICLE III - LOAN REPAYMENT ACCOUNT

3.01. LOAN DEBT SERVICE ACCOUNT.

The Project Sponsor shall establish a Loan Debt Service Account with a Depository and begin making Monthly Loan Deposits no later than the date set forth for such action in Section 10.07 of this Agreement.

Beginning six months prior to each Semiannual Loan Payment, the Project Sponsor shall make six Monthly Loan Deposits. The first five deposits each shall be at least equal to one-sixth of the Semiannual Loan Payment. The sixth Monthly Loan Deposit shall be at least equal to the amount required to make the total on deposit in the Loan Debt Service Account equal to the Semiannual Loan Payment amount, taking into consideration investment earnings credited to the account pursuant to Section 3.02.

Any month in which the Project Sponsor fails to make a required Monthly Loan Deposit, the Project Sponsor's chief financial officer shall notify the Department of such failure. In addition, the Project Sponsor agrees to budget, by amendment if necessary, payment to the Department from other legally available non-ad valorem funds all sums becoming due before the same become delinquent. This requirement shall not be construed to give superiority to the Department's claim on any revenues over prior claims of general creditors of the Project Sponsor, nor shall it be construed to give the Department the power to require the Project Sponsor to levy and collect any revenues other than Pledged Revenues.

3.02. INVESTMENT OF LOAN DEBT SERVICE ACCOUNT MONEYS.

Moneys on deposit in the Loan Debt Service Account shall be invested pursuant to the laws of the State of Florida. Such moneys may be pooled for investment purposes. The maturity or redemption date of investments shall be not later than the date upon which such moneys may be needed to make Semiannual Loan Payments. The investment earnings shall be credited to the Loan Debt Service Account and applied toward the Monthly Loan Deposit requirements.

3.03. LOAN DEBT SERVICE ACCOUNT WITHDRAWALS.

The withdrawal of moneys from the Loan Debt Service Account shall be for the sole purpose of making the Semiannual Loan Payment or for discharging the Project Sponsor's obligations pursuant to Section 8.01.

3.04. ASSETS HELD IN TRUST.

The assets in all accounts created under this Loan Agreement shall be held in trust for the purposes provided herein and used only for the purposes and in the manner prescribed in this

Agreement; and, pending such use, said assets shall be subject to a lien and charge in favor of the Department.

ARTICLE IV - PROJECT INFORMATION

4.01. PROJECT CHANGES.

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 Project Sponsor shall submit all addenda and all change orders to the Department for an eligibility determination. After execution of all construction, equipment and materials contracts, the Project contingency may be reduced.

4.02. TITLE TO PROJECT SITE.

The Project Sponsor shall have an interest in real property sufficient for the construction and location of the Project free and clear of liens and encumbrances which would impair the usefulness of such sites for the intended use.

4.03. PERMITS AND APPROVALS.

The Project Sponsor 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 Project Sponsor to oversee construction.

4.05. PROHIBITION AGAINST ENCUMBRANCES.

The Project Sponsor is prohibited from selling, leasing, or disposing of any part of the Water or Sewer System which would materially reduce operational integrity or Gross Revenues so long as this Agreement, including any amendments thereto, is in effect unless the written consent of the Department is first secured.

4.06. COMPLETION MONEYS.

In addition to the proceeds of this Loan, the Project Sponsor covenants that it has obtained, or will obtain, sufficient moneys from other sources to complete construction and place the Project in operation on, or prior to, the date specified in Article X. Failure of the Department to approve additional financing shall not constitute a waiver of the Project Sponsor's covenants to complete and place the Project in operation.

4.07. CLOSE-OUT.

The Department shall conduct a final inspection of the Project and Project records. Following the inspection, deadlines for submitting additional disbursement requests, if any, shall be established, along with deadlines for uncompleted Loan requirements, if any. Deadlines shall be incorporated into the Loan Agreement by amendment. The Loan principal shall be reduced by any excess over the amount required to pay all approved costs. As a result of such adjustment, the Semiannual Loan Payment shall be reduced accordingly, as addressed in Section 10.05.

4.08. LOAN DISBURSEMENTS.

Disbursements shall be made only by the State Chief Financial Officer and only when the requests for such disbursements are accompanied by a Department certification that such withdrawals are proper expenditures. Disbursements shall be made directly to the Project Sponsor for engineering and administrative allowances, and reimbursement of the incurred construction costs and related services. Disbursement of the allowances shall be made upon the Department's receipt of a disbursement request form. 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 Project Sponsor 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.

ARTICLE V - RATES AND USE OF THE WATER AND SEWER SYSTEMS

5.01. RATE COVERAGE.

The Project Sponsor shall maintain rates and charges for the services furnished by the Water and Sewer Systems which will be sufficient to provide, in each Fiscal Year, Pledged Revenues equal to or exceeding 1.15 times the sum of the Semiannual Loan Payments due in such Fiscal Year. In addition, the Project Sponsor shall satisfy the coverage requirements of all Senior Revenue Obligations and parity debt obligations.

5.02. NO FREE SERVICE.

The Project Sponsor shall not permit connections to, or furnish any services afforded by, the Water or Sewer System without making a charge therefore based on the Project Sponsor's uniform schedule of rates, fees, and charges.

5.03. MANDATORY CONNECTIONS.

The Project Sponsor shall adopt, as necessary, and enforce requirements, consistent with applicable laws, for the owner, tenant or occupant of each building located on a lot or parcel of land which is served, or may reasonably be served, by the Sewer System to connect such building to the Sewer System.

5.04. NO COMPETING SERVICE.

The Project Sponsor shall not allow any person to provide any services which would compete with the Water or Sewer System so as to adversely affect Gross Revenues.

5.05. MAINTENANCE OF THE WATER AND SEWER SYSTEMS.

The Project Sponsor shall operate and maintain the Water and Sewer Systems in a proper, sound and economical manner and shall make all necessary repairs, renewals and replacements.

5.06. ADDITIONS AND MODIFICATIONS.

The Project Sponsor may make any additions, modifications or improvements to the Water and Sewer Systems which it deems desirable and which do not materially reduce the operational integrity of any part of the Water or Sewer System. All such renewals, replacements, additions, modifications and improvements shall become part of the Water and Sewer Systems.

5.07. COLLECTION OF REVENUES.

The Project Sponsor shall use its best efforts to collect all rates, fees and other charges due to it. The Project Sponsor shall establish liens on premises served by the Water or Sewer System for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The Project Sponsor shall, to the full extent permitted by law, cause to discontinue the services of the Water and Sewer Systems and use its best efforts to shut off water

service furnished to persons who are delinquent beyond customary grace periods in the payment of Water and Sewer System rates, fees and other charges.

ARTICLE VI - DEFAULTS AND REMEDIES

6.01. EVENTS OF DEFAULT.

Each of the following events is hereby declared an event of default:

- (1) Failure to make any Monthly Loan Deposit or to make any installment of the Semiannual Loan Payment when it is due and such failure shall continue for a period of 30 days.
- (2) Except as provided in Subsections 6.01(1) and 6.01(7), failure to comply with the provisions of this Agreement or failure in the performance or observance of any of the covenants or actions required by this Agreement and such failure shall continue for a period of 60 days after written notice thereof to the Project Sponsor by the Department.
- (3) Any warranty, representation or other statement by, or on behalf of, the Project Sponsor contained in this Agreement or in any information furnished in compliance with, or in reference to, this Agreement, which is false or misleading.
- (4) An order or decree entered, with the acquiescence of the Project Sponsor, appointing a receiver of any part of the Water or Sewer System or Gross Revenues thereof; or if such order or decree, having been entered without the consent or acquiescence of the Project Sponsor, shall not be vacated or discharged or stayed on appeal within 60 days after the entry thereof.
- (5) Any proceeding instituted, with the acquiescence of the Project Sponsor, for the purpose of effecting a composition between the Project Sponsor and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from Gross Revenues of the Water or Sewer System.
- (6) Any bankruptcy, insolvency or other similar proceeding instituted by, or against, the Project Sponsor under federal or state bankruptcy or insolvency law now or hereafter in effect and, if instituted against the Project Sponsor, is not dismissed within 60 days after filing.
- (7) Failure of the Project Sponsor to give immediate written notice of default to the Department and such failure shall continue for a period of 30 days.

6.02. REMEDIES.

Upon any event of default and subject to the rights of others having prior liens on the Pledged Revenues, the Department may enforce its rights by any of the following remedies:

(1) By mandamus or other proceeding at law or in equity, cause to establish rates and collect fees and charges for use of the Water and Sewer Systems, and to require the Project Sponsor to fulfill this Agreement.

(2) By action or suit in equity, require the Project Sponsor to account for all moneys received from the Department or from the ownership of the Water and Sewer Systems and to account for the receipt, use, application, or disposition of the Pledged Revenues.

(3) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Department.

(4) By applying to a court of competent jurisdiction, cause to appoint a receiver to manage the Water and Sewer Systems, establish and collect fees and charges, and apply the revenues to the reduction of the obligations under this Agreement.

(5) By certifying to the Auditor General and the Chief Financial Officer delinquency on loan repayments, the Department may intercept the delinquent amount plus six percent, expressed as an annual interest rate, penalty of the amount due to the Department from any unobligated funds due to the Project Sponsor under any revenue or tax sharing fund established by the State, except as otherwise provided by the State Constitution. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(6) By notifying financial market credit rating agencies and potential creditors.

(7) By suing for payment of amounts due, or becoming due, with interest on overdue payments together with all costs of collection, including attorneys' fees.

(8) By accelerating the repayment schedule or increasing the interest rate on the unpaid principal of the Loan to as much as 1.667 times the Loan interest rate for a default under Subsection 6.01(1).

6.03. DELAY AND WAIVER.

No delay or omission by the Department to exercise any right or power accruing upon event of default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient. No waiver or any default under this Agreement shall extend to or affect any subsequent event of default, whether of the same or different provision of this Agreement, or shall impair consequent rights or remedies.

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ARTICLE VII - THE PLEDGED REVENUES

7.01. SUPERIORITY OF THE PLEDGE TO THE DEPARTMENT.

From and after the effective date of this Agreement, the Department shall have a lien on the Pledged Revenues, which along with any other Department State Revolving Fund liens on the Pledged Revenues, on equal priority, will be prior and superior to any other lien, pledge or assignment with the following exception. All obligations of the Project Sponsor under this Agreement shall be junior, inferior, and subordinate in all respects in right of payment and security to the Senior Revenue Obligations defined in Section 1.01 of this Agreement and to any additional senior obligations issued with the Department's consent pursuant to Section 7.02. Any of the Pledged Revenues may be released from the lien on such Pledged Revenues in favor of the Department if the Department makes a determination, based upon facts deemed sufficient by the Department, that the remaining Pledged Revenues will, in each Fiscal Year, equal or exceed 1.15 times the debt service coming due in each Fiscal Year under the terms of this Agreement.

7.02. ADDITIONAL DEBT OBLIGATIONS.

The Project Sponsor may issue additional debt obligations on a parity with, or senior to, the lien of the Department on the Pledged Revenues provided the Department's written consent is obtained. Such consent shall be granted if the Project Sponsor demonstrates at the time of such issuance that the Pledged Revenues, which may take into account reasonable projections of growth of the Water and Sewer Systems and revenue increases, plus revenues to be pledged to the additional proposed debt obligations will, during the period of time Semiannual Loan Payments are to be made under this Agreement, equal or exceed 1.15 times the annual combined debt service requirements of this Agreement and the obligations proposed to be issued by the Project Sponsor and will satisfy the coverage requirements of all other debt obligations secured by the Pledged Revenues. However, no such consent is required with respect to issuance of Senior Revenue Obligations as defined in Section 1.01.

ARTICLE VIII - GENERAL PROVISIONS

8.01. DISCHARGE OF OBLIGATIONS.

All payments required to be made under this Agreement shall be cumulative and any deficiencies in any Fiscal Year shall be added to the payments due in the succeeding year and all years thereafter until fully paid. Payments shall continue to be secured by this Agreement until all of the payments required shall be fully paid to the Department. If at any time the Project Sponsor shall have paid, or shall have made provision for the timely payment of, the entire principal amount of the Loan and interest, the pledge of, and lien on, the Pledged Revenues to the Department shall be no longer in effect. Deposit of sufficient cash, securities, or investments, authorized by law from time to time, may be made to effect defeasance of this Loan. However, the deposit shall be made in irrevocable trust with a banking institution or trust company for the

sole benefit of the Department. There shall be no penalty imposed by the Department for early retirement of this Loan.

8.02. PROJECT RECORDS AND STATEMENTS.

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 Project Sponsor has received a disbursement and until five years after the date that the Project-specific audit report, required under Subsection 2.03(4), is issued.

8.03. ACCESS TO PROJECT SITE.

The Project Sponsor shall provide access to Project sites and administrative offices to authorized representatives of the Department at any reasonable time. The Project Sponsor shall cause its engineers and contractors to cooperate during Project inspections, including making available working copies of plans and specifications and supplementary materials.

8.04. ASSIGNMENT OF RIGHTS UNDER AGREEMENT.

The Department may assign any part of its rights under this Agreement after notification to the Project Sponsor. The Project Sponsor shall not assign rights created by this Agreement without the written consent of the Department.

8.05. AMENDMENT OF AGREEMENT.

This Agreement may be amended in writing, except that no amendment shall be permitted which is inconsistent with statutes, rules, regulations, executive orders, or written agreements between the Department and the U.S. Environmental Protection Agency. This Agreement may be amended after all construction contracts are executed to re-establish the Project cost, Loan amount, Project schedule, and Semiannual Loan Payment amount. A final amendment establishing the final Project costs shall be completed after the Department's final inspection of the Project records.

8.06. ANNULMENT OF AGREEMENT.

The Department may unilaterally annul this Agreement if the Project Sponsor has not drawn any of the Loan proceeds within eighteen months after the effective date of this Agreement. If the Department unilaterally annuls this Agreement, the Department will provide written notification to the Project Sponsor.

8.07. SEVERABILITY CLAUSE.

If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

8.08. USE AS MATCHING FUNDS.

The U.S. Environmental Protection Agency provided a class deviation from the Provisions of 40 CFR 35.3125(b)(1) to allow these funds to be used as local matching requirements for most EPA grant funded treatment works projects, including special Appropriations Act projects.

8.09. COMPLIANCE VERIFICATION.

(1) The Project Sponsor shall periodically interview 10% of the work force entitled to Davis-Bacon prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(5), all interviews must be conducted in confidence. The Project Sponsor must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(2) The Project Sponsor shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Project Sponsor shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with Davis-Bacon posed by contractors or subcontractors and the duration of the contract or subcontract. Project Sponsors must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with Davis-Bacon. In addition, during the examinations the Project Sponsor shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(3) The Project Sponsor shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor (DOL) or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of laborers, trainees, and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in items (1) and (2) above.

(4) Project Sponsors must immediately report potential violations of the Davis-Bacon prevailing wage requirements to the EPA Davis-Bacon contact Sheryl Parsons at Parsons.Sheryl@epamail.epa.gov and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.

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) Certification of compliance with the conditions of the Department's approval of competitively or non-competitively negotiated procurement, if applicable.
- (4) Certification Regarding Disbarment, Suspension, Ineligibility and Voluntary Exclusion.
- (5) Assurance that the Project Sponsor and contractors are in compliance with Section 1606 with labor standards, including prevailing wage rates established for its locality by the U.S. Department of Labor under the Davis-Bacon Act for Project construction.

9.02. SUBMITTAL OF CONSTRUCTION CONTRACT DOCUMENTS.

After the Department's authorization to award construction contracts has been received, the Project Sponsor shall submit:

- (1) Contractor insurance certifications,
- (2) Executed Contract(s).
- (3) Notices to proceed with construction.

9.03. INSURANCE REQUIRED.

The Project Sponsor shall cause the Project, as each part thereof is certified by the engineer responsible for overseeing construction as completed, and the Water and Sewer Systems (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 Project Sponsor shall provide additional funds to restore or replace the damaged portions of the facilities. Repair, construction or replacement shall be promptly completed.

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ARTICLE X - DETAILS OF FINANCING

10.01. PRINCIPAL AMOUNT OF LOAN.

The estimated principal amount of the Loan is \$6,838,510, which consists of \$6,742,410 to be disbursed to the Project Sponsor and \$96,100 of Capitalized Interest.

Capitalized interest is not disbursed to the Project Sponsor, but is amortized via periodic loan repayments to the Department as if it were actually disbursed. Capitalized interest is computed at the interest rate, or rates, set for the Loan. It accrues and is compounded annually from the time when disbursements are made until six months before the first Semiannual Loan Payment is due. Capitalized Interest is estimated prior to establishing the schedule of actual disbursements.

10.02. LOAN SERVICE FEE.

The Loan Service Fee is \$134,848 for the Loan amount authorized to date. The fee represents two percent of the Loan amount excluding Capitalized Interest; that is, two percent of \$6,742,410. An additional Loan Service Fee amount will be assessed for any additional funding provided by amendment to this Agreement. The fee shall be adjusted downward if adjustment of Project costs results in a Loan decrease, provided that the decrease amendment is executed before the first Semiannual Loan Payment due date.

Interest shall accrue on the Loan Service Fee at the rate, or rates, set for the Loan until the fee is paid. Loan Service Fee interest shall be compounded annually from the effective date of the Loan until six months before the first Semiannual Loan Payment is due at which time it is capitalized. The estimated Loan Service Fee capitalized interest is \$3,870.

10.03. INTEREST RATE.

The rate of interest on the unpaid principal of the Loan amount specified in Section 10.01 is 2.12 percent per annum; however, if this Agreement is not executed by the Project Sponsor and returned to the Department before October 1, 2013, the interest rate may be adjusted. A separate interest rate shall be established for any additional funds provided by amendment to this Agreement.

10.04. LOAN TERM.

The Loan shall be repaid in 40 Semiannual Loan Payments.

10.05. REPAYMENT SCHEDULE.

The Semiannual Loan Payment shall be computed based upon the principal amount of the Loan plus the Loan Service Fee and Loan Service Fee capitalized interest and the principle of level debt service. The Department will deduct the Loan Service Fee and all associated interest from the first two payments. The Semiannual Loan Payment amount may be adjusted, by amendment of this Agreement, based upon revised information. After the final disbursement of

Loan proceeds, the Semiannual Loan Payment shall be based upon the actual Project costs and actual dates and amounts of disbursements, taking into consideration any previous payments. Actual Project costs shall be established after the Department's inspection of the completed Project and associated records.

Each Semiannual Loan Payment shall be in the amount of \$214,925 until the payment amount is adjusted by amendment. The interest portion of each Semiannual Loan Payment shall be computed on the unpaid balance of the principal amount of the Loan, including Capitalized Interest. Interest also shall be computed on the unpaid balance of the Loan Service Fee and Loan Service Fee capitalized interest. Interest shall be computed as of the due date of each Semiannual Loan Payment.

Semiannual Loan Payments shall be received by the Department beginning on August 15, 2015 and semiannually thereafter on February 15 and August 15 of each year until all amounts due hereunder have been fully paid. Funds transfer shall be made by electronic means.

The Semiannual Loan Payment amount is based on the total amount owed of \$6,977,228, which consists of the Loan principal plus the Loan Service Fee with its capitalized interest.

10.06. PROJECT COSTS.

The Project Sponsor 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 construction bidding or mutually agreed upon Project changes. Capitalized Interest will be recalculated based on actual dates and amounts of Loan disbursements. If the Project Sponsor 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 costs after its final inspection of the Project records. Changes in Project costs may also occur as a result of the Project Sponsor's Project audit or a Department audit. The Project Sponsor agrees to the following estimates of Project costs:

PROJECT COSTS

CATEGORY	COST(\$)
Administrative Allowance	35,178
Engineering Allowance	375,232
Construction and Demolition	5,330,000
Contingencies	533,000
Technical Services After Bid Opening	469,000
SUBTOTAL(Disbursable Amount)	6,742,410
Capitalized Interest	96,100
TOTAL (Loan Principal Amount)	6,838,510

10.07. SCHEDULE.

The Project Sponsor agrees by execution hereof:

- (1) Completion of Project construction is scheduled for February 15, 2015.
- (2) The Loan Debt Service Account shall be established and Monthly Loan Deposits shall begin no later than February 15, 2015.
- (3) The initial annual certification required under Subsection 2.01(10) of this Agreement shall be due May 15, 2015. Thereafter the certification shall be submitted no later than September 30 of each year until the final Semiannual Loan Payment is made.
- (4) The first Semiannual Loan Payment in the amount of \$214,925 shall be due August 15, 2015.

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ARTICLE XI - EXECUTION OF AGREEMENT

This Loan Agreement DW550110 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 Agreement to be executed on its behalf by the Program Administrator and the Project Sponsor 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 Program Administrator.

for
ST. JOHNS COUNTY

Chairman, Board of County Commissioners

I attest to the opinion expressed in Section
2.02, entitled Legal Authorization.

Attest

County Clerk

County Attorney

SEAL

for
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Program Administrator
State Revolving Fund

Date

Attachment included as part of this Agreement:

Attachment A - Certification of Applicability to Single Audit Act Reporting

ATTACHMENT A

CERTIFICATION OF APPLICABILITY TO SINGLE AUDIT ACT REPORTING

Grantee's Name:

Grantee Fiscal Year Period: FROM: _____ TO: _____

Total State Financial Assistance Expended during Grantee's most recently completed Fiscal Year:

\$ _____

Total Federal Financial Assistance Expended during Grantee's most recently completed Fiscal Year:

\$ _____

CERTIFICATION STATEMENT:

I hereby certify that the above information is correct.

Signature

Date

Print Name and Position Title

INSTRUCTIONS FOR COMPLETING THE ATTACHMENT

Grantee Fiscal Year Period: FROM: Month/Year TO: Month/Year

NOTE: THIS SHOULD BE THE GRANTEE'S FISCAL YEAR FROM (MONTH/YEAR) TO (MONTH/YEAR).

Total State Financial Assistance Expended during Grantee's most recently completed Fiscal Year:

NOTE: THIS AMOUNT SHOULD BE THE TOTAL STATE FINANCIAL ASSISTANCE EXPENDED FROM ALL STATE AGENCIES, NOT JUST DEP.

\$ _____

Total Federal Financial Assistance Expended during Grantee's most recently completed Fiscal Year:

NOTE: THIS AMOUNT SHOULD BE THE TOTAL FEDERAL FINANCIAL ASSISTANCE EXPENDED FROM ALL FEDERAL AGENCIES, NOT JUST THROUGH DEP.

\$ _____

The Certification should be signed by your Chief Financial Officer.

Please print the name and include the title and date of the signature.

CERTIFICATION OF APPLICABILITY TO SINGLE AUDIT ACT REPORTING

FREQUENTLY ASKED QUESTIONS

1. **Question:** Do I complete and return this form when I return my signed Agreement/Amendment?

Answer: No, this form is to be completed and signed by your Chief Financial Officer and returned 4 months after the end of your fiscal year.

2. **Question:** Can I fax the form to you?

Answer: Yes, you can fax the Certification form, the fax number is 850/245-2411.

3. **Question:** How can I submit the form if our audit is not completed by the due date of this letter?

Answer: You should be able to complete the form from the information in your accounting system. This is just to let our Office of the Inspector General know which entities they should be getting an audit from. If you are under the threshold you do not have to submit a copy of your audit, only the Certification form.

4. **Question:** Do you only want what we received from DEP?

Answer: No, the Single Audit is the TOTAL AMOUNT of funds that you expended towards all state or federal grants that you receive. You should list those that are specific to DEP on the form.

5. **Question:** Do I have to submit the completed form and a copy of my audit?

Answer: No, you do not have to submit your audit unless you are over the threshold of \$500,000. If you would prefer to submit your audit (CAFR) instead of the form, that is fine.

6. **Question:** Our CAFR will not be ready before your due date and we don't have the information necessary to complete the certification. Can we get an extension?

Answer: Yes, just send us an Email letting us know when you will have your CAFR completed and we will place the Email with your letter in our file so that you don't get a 2nd notice.

7. **Question:** Can I submit my Certification Form or CAFR electronically?

Answer: Yes, you can submit them by Email to Debbie.skelton@dep.state.fl.us

RESOLUTION NO. 2013-_____

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING THE STATE REVOLVING LOAN PROGRAM, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY

WHEREAS, Chapter 403, Florida Statutes, as amended, provides for state revolving loan program loans to local government agencies to finance the construction of water facilities; and

WHEREAS, the Board of County Commissioners of St. Johns County, Florida, during a regular Board meeting held on January 15, 2013 approved Resolutions 2013-14 and 2013-15 authorizing the application for the SRF loan, establishing pledged revenues and designating authorized representatives; and

WHEREAS, St. Johns County, Florida, has received a loan agreement with the Department of Environmental Protection under the State Revolving Fund to finance various water improvement projects within the County's Ponte Vedra utility system; and

WHEREAS, the COUNTY has reviewed the terms, and conditions of the above-referenced Agreement attached hereto, and incorporated herein; and

WHEREAS, the COUNTY has determined that accepting the terms of the Agreement, attached hereto, and incorporated herein, will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. Authority to Approve.

The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of Agreement between St. Johns County and Florida Department of Environmental Protection and authorizes the County Administrator to execute this Agreement on behalf of St. Johns County.

Section 3. Correction of Errors.

To the extent that there are scrivener's/typographical errors noted within the above-noted Agreement, the Agreement may be revised, in order to correct such errors, without the necessity of further action by the Board.

Section 4. Effective Date.

This Resolution shall be effective upon its execution.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County,

Florida, this _____ day of _____, 2013.

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

By: _____

John H. Morris, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: _____

Deputy Clerk

MINUTES & RESOLUTIONS

JAN 15, 2013

2013-14

2013-15

WITH RESPECT TO THE SERIES 2013 BONDS; APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING A FINAL OFFICIAL STATEMENT WITH RESPECT TO THE SERIES 2013 BONDS; APPOINTING THE REGISTRAR AND PAYING AGENT FOR THE SERIES 2013 BONDS AND APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A REGISTRAR AND PAYING AGENT AGREEMENT; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A CONTINUING DISCLOSURE CERTIFICATE; ESTABLISHING A BOOK-ENTRY SYSTEM OF REGISTRATION FOR THE SERIES 2013 BONDS; PROVIDING FOR CERTAIN AMENDMENTS TO BE MADE TO RESOLUTION NO. 89-84 RELATING TO THE RESERVE ACCOUNT ESTABLISHED THEREIN; APPOINTING AN ESCROW AGENT AND APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT; DELEGATING CERTAIN AUTHORITY TO DETERMINE CERTAIN MATTERS WITH RESPECT TO THE SERIES 2013 BONDS INCLUDING WHETHER TO UTILIZE A BOND INSURANCE POLICY FOR ANY OF THE SERIES 2013 BONDS; AND PROVIDING AN EFFECTIVE DATE

(01/15/13 - 11 - 10:44 a.m.)

4. PUBLIC HEARING - CONSIDER TWO RESOLUTIONS FOR THE STATE REVOLVING FUND LOAN APPLICATION FOR CONSTRUCTION OF WATER IMPROVEMENT PROJECTS FOR THE COUNTY'S PONTE VEDRA UTILITY SYSTEM AND FACILITIES PLAN FOR THE PV UTILITY SYSTEM

Proof of publication of the notice of public hearing on making improvements to the existing Ponte Vedra water system was received, having been published in *The St. Augustine Record* on January 3, 2013.

Bill Young, Utility Director, gave a PowerPoint presentation, *Exhibit A*. He gave an overview of the Ponte Vedra Utility facility and its service area, and spoke on the key objectives of the facility plan assessment, the estimated construction costs and capital costs of the project, and the business plan for SRF implementation. He recommended the Board pass the attached resolutions: one for the facility plan; and one to authorize moving forward in the FDEP process. He said a correction needed to be made to the third whereas clause in the resolution, changing "installation of a new potable water well" to "rehabilitation of existing well."

(10:50 a.m.) BJ Kaliadi, 8 Newcomb Street, spoke about the West Augustine CRA and sewer connections in that area. McClure mentioned that the Board approved a \$2,000,000 extension for water and sewer infrastructure for West King Street; discussion ensued.

(10:58 a.m.) Motion by McClure, seconded by Sanchez, carried 5/0, to adopt Resolution No. 2013-14, adopting the Facilities Plan for the Ponte Vedra Utilities Water System, dated December 2012.

RESOLUTION NO. 2013-14

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHNS COUNTY, FLORIDA, ADOPTING A 201 FACILITY PLANNING DOCUMENT TITLED "FACILITIES PLAN FOR THE PONTE VEDRA UTILITIES WATER SYSTEM" AS THE PLANNING DOCUMENT FOR THE WATER MANAGEMENT PLAN, AND PROVIDING AN EFFECTIVE DATE

Motion by McClure, seconded by Sanchez, to adopt Resolution 2013-15, authorizing the County to apply for a SRF loan with the Florida Department of Environmental Program for the construction of water improvement projects for the County's Ponte Vedra utility system, establishing pledged revenues, and designing authorized representatives. Bennett mentioned there was an amendment to Resolution 2013-15. McCormack asked the maker of the motion to accept the motion to adopt Resolution 2013-15 as amended; changing in the third whereas clause of that resolution, the language "installation of a new potable water well" to "rehabilitation of existing well." McClure and Sanchez accepted the amendment. The motion carried 5/0.

RESOLUTION NO. 2013-15

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RELATING TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION STATE REVOLVING LOAN PROGRAM; AUTHORIZING APPLICATION FOR LOAN; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; AUTHORIZING SUBMITTAL OF LOAN APPLICATION; AND PROVIDING AN EFFECTIVE DATE

The meeting recessed at 11:01 a.m. and reconvened at 11:16 a.m.)

The meeting moved to Item 9.

(01/15/13 - 12 - 11:23 a.m.)

DISTRICT 2

5. PUBLIC HEARING - VACPLA 2012-01, COLLEGE PARK - THE SUBJECT OF THIS RESOLUTION IS A PARTIAL PLAT VACATION OF COLLEGE PARK. THE PROPERTY IS LOCATED NORTH OF CR 214 AND SOUTH OF CARTER ROAD. THIS REQUEST WILL ELIMINATE 45 NON-CONFORMING LOTS AND SEVERAL SUBSTANDARD UNOPENED RIGHTS-OF-WAY. ALL TECHNICAL COMMENTS HAVE BEEN ADDRESSED THROUGH THE DEVELOPMENT REVIEW PROCESS; THEREFORE, STAFF HAS NO OBJECTIONS. THE PLANNING AND ZONING AGENCY RECOMMENDED APPROVAL (5/0), AT THEIR DECEMBER 20, 2012, MEETING

Proof of publication of the notice of public hearing on College Park partial plat vacation was received having been published in *The St. Augustine Record* on October 30, 2012, and November 6, 2012.

Kathy Nielsen, Application Review Manager, Development Services Division, gave the presentation, *Exhibit A*. She said the applicant owned the property to the southeast of the requested plat vacation, next to the pond. She stated that the applicant purchased the partial plat, and would like to vacate the lots and right-of-way, which would give them more flexibility in developing.

RESOLUTION NO. 2013 - 14

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS, ST. JOHNS COUNTY, FLORIDA, ADOPTING A 201 FACILITY PLANNING DOCUMENT TITLED "FACILITIES PLAN FOR THE PONTE VEDRA UTILITIES WATER SYSTEM" AS THE PLANNING DOCUMENT FOR THE WATER MANAGEMENT PLAN, AND PROVIDING AN EFFECTIVE DATE;

WHEREAS, the Board of County Commissioners of St. Johns County has determined that the construction of the improvement program projects, as set forth in the 201 Facility Planning Document is in the best interest and welfare of its citizens; and

WHEREAS, the Board of County Commissioners of St. Johns County examined the 201 Facility Planning Document titled, "Facilities Plan for the Ponte Vedra Utilities Water System" dated December, 2012, prepared by CDM Smith, Engineers, and discussed the results and recommendations of the report at a public hearing on Tuesday January 15, 2013; and

WHEREAS, the Board of County Commissioners of St. Johns County examined the 201 Facility Planning Document and Business Plan, dated December 2012, prepared by CDM Smith Engineers, and discussed the results of the report at a public hearing on Tuesday January 15, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners of St. Johns County does hereby adopt the 201 Facility Planning Document titled "Facilities Plan for the Ponte Vedra Utilities Water System" prepared by CDM Smith, dated December 2012, as the planning document for the water management system.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners of St. Johns County.

Section 4. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns
County, Florida, this 15 day of January, 2013.

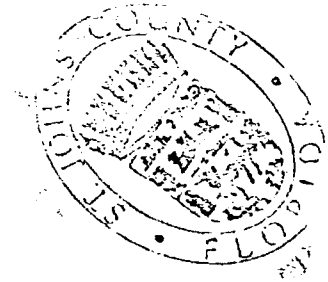
BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

Attest:

Pam Halterman
Deputy Clerk

By:

[Signature]
Chair



RESOLUTION NO. 2013 - 15

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RELATING TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION STATE REVOLVING LOAN PROGRAM; AUTHORIZING APPLICATION FOR LOAN; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; AUTHORIZING SUBMITTAL OF LOAN APPLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 403, Florida Statutes, as amended, provides for state revolving loan program loans to local government agencies to finance the construction of water facilities; and

WHEREAS, said state revolving loan program (the "State Revolving Loan Program") requires evidence of local government authorization to apply for loans, establish pledged revenues, designate an authorized representative and provide assurances of compliance with loan program requirements; and

WHEREAS, the St. Johns County Utility Department has determined that the projects proposed in its Facilities Plan relating to St. Johns County's Ponte Vedra utility system (the "Ponte Vedra System"), including replacement of aged water meters with new automated meter readers, rehabilitation of existing well, and replacement and upgrade of potable water higher service pumps (collectively, the "Projects"), are eligible for available financing under the State Revolving Loan Program and recommends St. Johns County submit a loan application for such financing; and

WHEREAS; the Board of County Commissioners of St. Johns County, Florida, during a regular Board meeting intends to enter into a binding loan agreement with the State of Florida Department of Environmental Protection for financing the Projects as required by the State Revolving Loan Program; and

WHEREAS, St. Johns County has determined that participation in the State Revolving Loan Program will serve the interests of St. Johns County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. Application for a loan under the State Revolving Loan Program and submittal of the related loan application to finance the Projects is hereby authorized.

Section 3. The revenues pledged for the repayment of the loan are the net water and sewer revenues of the Ponte Vedra System, together with legally available Ponte Vedra System connection fees. Such pledge is subordinate to the pledge thereon in favor of all St. Johns

County Ponte Vedra utility system revenue bonds listed in Exhibit "A" attached hereto, together with any additional bonds or obligations that are later issued on a parity therewith.

Section 4. The Chair of the Board of County Commissioners of St. Johns County, Florida, is hereby designated as St. Johns County's authorized representative and authorized to execute the application, execute the loan agreement upon approval of the loan agreement by the Board of County Commissioners of St. Johns County during a regularly scheduled meeting, provide assurances required by the application and the loan agreement, represent St. Johns County in carrying out St. Johns County's responsibilities under the loan agreement and delegate responsibility to appropriate St. Johns County staff to carry out technical, financial and administrative activities associated with the application and the loan agreement.

Section 5. The St. Johns County Administrator is hereby authorized to submit the application, provide assurances required by the application and the loan agreement, represent St. Johns County in carrying out St. Johns County's responsibilities under the loan agreement, execute disbursement requests and delegate responsibility to appropriate St. Johns County staff to carry out technical, financial and administrative activities associated with the application and the loan agreement.

Section 6. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners of St. Johns County.

Section 7. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 15 day of January, 2013.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

Attest:

Dan Halterman
Deputy Clerk

By:

[Signature]
Chairman

