RESOLUTION NO. 07-44

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA AUTHORIZING LOANS FROM THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE PURPOSE OF MAKING WASTEWATER COLLECTION IMPROVEMENTS IN THE AMOUNTS OF NOT TO EXCEED $5,688,000 FOR THE LAMPLIGHTER ASSESSMENT AREA AND NOT TO EXCEED $8,780,000 FOR THE SHEFFIELD ASSESSMENT AREA; AUTHORIZING THE FORM OF A LOAN AGREEMENT BETWEEN THE CITY AND THE DEPARTMENT FOR EACH AREA; AUTHORIZING THE PROPER OFFICIALS OF THE CITY TO DO ANY OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE EXECUTION OF THE LOAN AGREEMENTS AND THE SECURITY THEREFOR; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. DEFINITIONS. In the event of any inconsistencies as between defined terms used herein and defined terms used in the Loan Agreements, defined terms in this Resolution shall prevail. Capitalized undefined terms used herein shall have the meanings ascribed below:

"Act" shall mean the Florida Constitution, Chapter 166, Part II, Florida Statutes, Chapter 159, Florida Statutes, the municipal charter of the City, the Assessment Ordinance, and any other applicable provisions of law.

"Areas" shall mean, collectively, the Lamplighter Assessment Area, the Sheffield Assessment Area, the Goldenrod Assessment Area and the Copperfield Assessment Area, each located within the City.

"Assessment Resolution" shall mean, collectively, the Lamplighter Assessment Resolution, the Sheffield Assessment Resolution, the Goldenrod Assessment Resolution and the Copperfield Assessment Resolution.

"Assessment Ordinance" shall mean Ordinance No. 99-1 enacted by the City Council of the City on February 1, 1999, as amended, and as codified in the City's Code of Ordinances in Sections 2-281 through 2-379.

"Bond Counsel" shall mean Bryant Miller Olive P.A., or such other nationally recognized bond counsel firm selected by the City.

"City" shall mean the City of Marco Island, Florida.

"Deferred Payment Agreement" shall mean the Deferred Payment Agreement described in Sections 3.09 and 3.10 of the related Assessment Resolution and authorized by City Resolution Nos. 06-46 and 07-08.

"Department" shall mean the State of Florida Department of Environmental Protection.

"Lamplighter Assessment Resolution" shall mean Resolution No. 07-14 adopted by the City Council of the City on February 20, 2007, as amended and supplemented from time to time, and as particularly supplemented by Resolution No. 07-22 adopted by the City Council of the City on April 23, 2007.

"Pledged Revenues" shall have the meaning ascribed thereto in Section 2.J. hereof.

"Project" shall mean, collectively, Wastewater Collection Improvements in each of the Areas.

"Sheffield Assessment Resolution" shall mean Resolution No. 07-15 adopted by the City Council of the City on February 20, 2007, as amended and supplemented from time to time, and as particularly supplemented by Resolution No. 07-23 adopted by the City Council of the City on April 23, 2007.

"SRF Loan" shall mean the State Revolving Fund loans available to local governments from the Department in order to finance the construction of certain wastewater facilities.

"Wastewater Collection Assessments" shall mean special assessments (sometimes characterized as non-ad valorem assessments) imposed by the City against property located within the related Area to fund the costs of Wastewater Collection Improvements to serve the related Area and related expenses, computed in the manner described in the related Assessment Resolution. The term "Wastewater Collection Assessments" shall include payments advanced or funded by the City on behalf of an owner of property subject to a Wastewater Collection Assessment who has entered into a Deferred Payment Agreement.

"Wastewater Collection Deferred Payments" shall mean payments or proceeds received by the City pursuant to a Deferred Payment Agreement which are attributable to Wastewater Collection Improvements to serve the related Area and which may be pledged in whole or in part to secure the SRF Loans. The term "Wastewater Collection Deferred Payments" shall not include any payments or proceeds received by the City pursuant to a Deferred Payment Agreement which are attributable to Wastewater Treatment Capacity Improvements.

"Wastewater Collection Improvements" shall be deemed a local improvement as such term is defined in the Assessment Ordinance, and shall mean wastewater collection facilities and ancillary capital improvements to be constructed by the City, including but not limited to, the acquisition, installation construction, retrofitting and provision of gravity lines, force mains, pump or lift stations and associated subdivision type infrastructure necessary to service a particular Area, together with land or easement acquisition costs, which will provide for collection of wastewater generated within a particular Area. Wastewater Collection Improvements do not include Wastewater Treatment Capacity Improvements.

"Wastewater Treatment Capacity Assessments" shall mean special assessments (sometimes characterized as non-ad valorem assessments) imposed by the City against property located within the related Area to fund the costs of Wastewater Treatment Capacity Improvements to serve the related Area and related expenses, computed in the manner described in the related Assessment Resolution. The term "Wastewater Treatment Capacity Assessments" shall include payments advanced or funded by the City on behalf of an owner of property subject to a Wastewater Treatment Capacity Assessment who has entered into a Deferred Payment Agreement. The term "Wastewater Treatment Capacity Assessments" shall not include any payments or proceeds received by the City pursuant to any such Deferred Payment Agreement.

"Wastewater Treatment Capacity Improvements" shall be deemed local improvements as such term is defined in the Assessment Ordinance, and shall mean the wastewater transmission, treatment, disposal and reuse facilities and ancillary capital improvements to be constructed by the City including, but not limited to, major transmission, treatment plant, and reuse disposal facilities, together with land or easement acquisition costs, which will receive, accommodate, treat and dispose of the additional wastewater generated by new users, growth and the construction of Wastewater Collection Improvements within a particular Area. Wastewater Treatment Capacity Improvements do not include Wastewater Collection Improvements.

SECTION 2. FINDINGS AND AUTHORIZATION OF PROJECT.

(A) The City, pursuant to the provisions of the Act, is authorized to borrow money, issue bonds, notes or other obligations to finance the costs of Wastewater Collection Improvements;

(B) By resolution adopted by City Council, the City has heretofore authorized the issuance of revenue bonds in the amount not to exceed $7,650,000 to finance both Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements in the Lamplighter Assessment Area, and not to exceed $11,000,000 to finance both Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements in the Sheffield Assessment Area (collectively, the "Bonds");

(C) The City has determined that SRF Loans offer a lower cost alternative to the issuance of Bonds for the purpose of financing the Wastewater Collection Improvements only (and not the Wastewater Treatment Capacity Improvements) within the respective Areas, namely executing four separate SRF Loans, one for each Area (collectively, the "SRF Loans");

(E) For each Area, the City intends to issue Bonds to finance the Wastewater Treatment Capacity Improvements because such improvements are not eligible to be financed from loans to be made by the Department;

(F) For each Area, the Bonds will be secured by a pledge of Wastewater Treatment Capacity Assessments imposed in such Area (and not by Wastewater Collection Improvements imposed in such Area);

(G) Bond Counsel has advised the City that the SRF Loans should be validated;

(H) In order to commence the validation proceedings in connection with the SRF Loans, the City desires to approve the form of and authorize execution of a form Loan Agreement between the City and the Department attached hereto as Exhibit A (the "Loan Agreement");

(I) In order to finance Wastewater Collection Improvements for each of the Lamplighter Assessment Area and the Sheffield Assessment Area it is contemplated that the City will enter into a separate Loan Agreement for each Area;

(J) Each SRF Loan will be secured by a pledge of Wastewater Treatment Collection Assessments imposed in such Area (and not by Wastewater Treatment Capacity Improvements imposed in such Area) and Wastewater Collection Deferred Payments (collectively, the "Pledged Revenues");

(K) The SRF Loans shall not be or constitute a general obligation or indebtedness of the City as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the related Pledged Revenues in accordance with the terms of each such Loan Agreement, and the Department shall never have the right to compel the exercise of any ad valorem taxing power to pay such SRF Loans, or be entitled to payment of such SRF Loans from any funds of the City except from the applicable Pledged Revenues as described herein; and

(L) The Project is a capital project appropriately undertaken by the City under the Act and the City hereby authorizes the Project and the capital expenditures necessary to complete the Project.

SECTION 3. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

SECTION 4. APPROVAL OF LOAN AGREEMENTS. The City hereby authorizes the City Manager or an assistant or deputy City Manager (collectively, the "City Manager") to execute and deliver, and the City Clerk or any assistant or deputy City Clerk (the "City Clerk") to attest, on behalf of the City, a separate Loan Agreement for each Area substantially in the form attached hereto as Exhibit "A," with such changes, insertions, and additions as they may approve, their execution thereof being evidence of such approval. The approval of execution given herein includes the approval of the City to allow the City Manager to execute and deliver, and the City Clerk to attest, any requested documents on behalf of the City with respect to the execution and delivery of the Loan Agreements.

SECTION 5. TRANSACTION COSTS. From legally available sources, the City authorizes the payment of legal fees to Bond Counsel of $5,000 for services provided in connection with the execution and delivery of each Loan Agreement (such fee is separate and a part from fees to be charged for the validation).

SECTION 6. AUTHORIZATION OF OTHER DOCUMENTS TO EFFECT TRANSACTION. To the extent that other documents, certificates, opinions, or items are needed to effect any of the transactions referenced in this Resolution, each of the Loan Agreements and the security therefore, the City Manager is hereby authorized to execute and deliver and the City Clerk is hereby authorized to attest on behalf of the City such documents, certificates, opinions, or other items and to take such other actions as are necessary for the full, punctual, and complete performance of the covenants, agreements, provisions, and other terms as are contained herein and in the documents included herein by reference.

SECTION 7. LIMITED OBLIGATION. The SRF Loans shall not be or constitute a general obligation or indebtedness of the City as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from the related Pledged Revenues in accordance with the terms of each Loan Agreement, and the Department shall never have the right to compel the exercise of any ad valorem taxing power to pay such SRF Loans, or be entitled to payment of such SRF Loans from any funds of the City except from the applicable Pledged Revenues as described herein.

SECTION 8. VALIDATION PROCEEDING. Bond Counsel is hereby authorized and directed to institute appropriate proceedings in the Circuit Court in and for Collier County, Florida, for validation of the SRF Loans pursuant to Chapter 75, Florida Statutes, and the proper officers of the City are hereby authorized to verify on behalf of the City the pleadings in such proceedings.

SECTION 9. REPEAL OF INCONSISTENT DOCUMENTS. All resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 10. EFFECT OF PARTIAL INVALIDITY. If any one or more provisions of this Resolution or the Loan Agreements shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not effect any other provision of this Resolution or the Loan Agreements, but this Resolution and the Loan Agreements shall be construed and enforced as if such illegal or invalid provision had not been contained therein. The Loan Agreements shall be executed and delivered, and this Resolution is adopted with the intent that the laws of the State of Florida shall govern their construction.

[Remainder of page intentionally left blank]

SECTION 11. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage.

Passed in open and regular session through roll all vote by the City Council of the City of Marco Island, Florida on this 6th day of August, 2007.

ATTEST

Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

Michael F. Minozzi, Jr., Chairman

Approved as to Form:

Alan L. Gabriel, City Attorney

{4433/14/00174326.DOCv4}

EXHIBIT A

FORM OF LOAN AGREEMENTS

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

AND

(*1), FLORIDA

CLEAN WATER STATE REVOLVING FUND
CONSTRUCTION LOAN AGREEMENT
WW(*2)

Florida Department of Environmental Protection
Bureau of Water Facilities Funding
Twin Towers Office Building
2600 Blair Stone Road, MS 3505
Tallahassee, Florida 32399-2400

CLEAN WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT

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CLEAN WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT

WW(*2)

THIS AGREEMENT is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and the (*1), FLORIDA, (Local Government) existing as a local governmental agency under the laws of the State of Florida.

WITNESSETH:

WHEREAS, pursuant to Section 403.1835, Florida Statutes, the Department is authorized to make loans to local government agencies to finance or refinance the construction of wastewater pollution control facilities, the planning and design of which have been reviewed by the Department; and

WHEREAS, the Local Government 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 Local Government, 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 Local Government authorized by ordinance or resolution to sign documents associated with the Loan.

(3) "Capitalized Interest" shall mean a finance charge that accrues at the Financing Rate 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) "Financing Rate" shall mean the charges, expressed as a percent per annum, imposed on the unpaid principal of the Loan. The Financing Rate shall consist of an interest rate component and a Grant Allocation Assessment rate component.

(6) "Grant Allocation Assessment" shall mean an assessment, expressed as a percent per annum, accruing on the unpaid balance of the Loan. It is computed similarly to the way interest charged on the Loan is computed and is included in the Semiannual Loan Payment. The Department will use Grant Allocation Assessment moneys for making grants to financially disadvantaged small communities pursuant to Section 403.1835 of the Florida Statutes.

(7) "Gross Revenues" shall mean all income or earnings received by the Local Government from the ownership or operation of its 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.

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

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

(10) "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 Local Government for the purpose of accumulating Monthly Loan Deposits and making Semiannual Loan Payments.

(11) [* If applicable] "Loan Repayment Reserve Account" or "Loan Repayment Reserve" shall mean the account into which will be deposited the amount set aside to pay temporary and unexpected deficiencies, if any, in the Semiannual Loan Payment.

(12) "Loan Service Fee" shall mean an origination fee which shall be paid to the Department by the Local Government.

(13) "Monthly Loan Deposit" shall mean the monthly deposit to be made by the Local Government to the Loan Debt Service Account.

(14) "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.

(15) "Pledged Revenues" shall mean the specific revenues pledged as security for repayment of the Loan and shall be the [* name applicable revenues] 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 [* If applicable] the Senior Revenue Obligations and any senior obligations issued pursuant to Section 7.02 of this Agreement.

(16) "Project" shall mean the works financed by this Loan and shall consist of furnishing all labor, materials, and equipment to construct the [* brief description or name of project] in accordance with the plans and specifications accepted by the Department for the following contracts:

(a) (* title).

(b) (* title). [* If applicable] This contract includes installation of [equipment], which will be furnished by the contract listed under (c), below.

(c) (* title). [* If applicable] This contract is for purchasing [equipment], which will be installed by the contract listed under (b), above.

(d) (* title).

[* If applicable] The Project also includes the purchase of land.

The Project is in agreement with the _____ Facilities Plan, dated _____ [* include other studies if applicable]. Approval of this Project is provided by the Florida Finding of No Significant Impact dated _____. [* If applicable.] This Project is a Capitalization Grant Project as defined in Chapter 62-503, Florida Administrative Code.

(17) "Semiannual Loan Payment" shall mean the payment due from the Local Government to the Department at six-month intervals. It is comprised of principal, Loan Service Fee and as applicable, interest and Grant Allocation Assessment computed using the interest rate and Grant Allocation Assessment rate, respectively. In addition, the Loan Service Fee and any associated interest are deducted from the first available repayments following the final amendment.

(18) [* Include if applicable] "Senior Revenue Obligations" shall mean the following debt obligations:

(a) (* Name), Florida, Water and Sewer System Revenue Refunding Bonds, Series 19_____, issued in the amount of $_____, pursuant to Ordinance Resolution No. _____; and

(b) (* Name), Florida, Water and Sewer System Revenue Bonds, Series 19_____, issued in the amount of $_____, pursuant to Ordinance Resolution No. _____; and

(c) Additional bonds issued on a parity with the bonds identified above pursuant to Section _____ of Ordinance Resolution No. _____; 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.

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

(20) "Water System" shall mean all facilities owned by the Local Government 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 Local Government warrants, represents and covenants that:

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

(2) The Local Government 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 Local Government's knowledge, threatened, which seeks to restrain or enjoin the Local Government 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 Local Government knows of no reason why any future required permits or approvals are not obtainable.

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

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

(7) All Local Government 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 Local Government to the Department was current and correct as of the date such information was delivered. The Local Government shall comply with Chapter 62-503, 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 Local Government shall take such action as is necessary for compliance.

(8) The Local Government shall maintain records using generally accepted accounting principles established by the Governmental Accounting Standards Board. As part of its bookkeeping system, the Local Government 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. [if applicable], and Loan Repayment Reserve Account.

(9) [Reserved]

(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 Local Government'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, on a pro rata basis, the rate coverage requirement; (b) the Loan Debt Service Account contains the funds required; and (c) insurance, including that issued through the National Flood Insurance Program authorized under 42 U.S.C. secs. 4001-4128 when applicable, in effect for the facilities generating the Pledged Revenues, adequately covers the customary risks to the extent that such insurance is available.[if applicable]: and (d) the Loan Repayment Reserve Account contains the funds required.

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

(12) The Local Government 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 Local Government 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.[if applicable]or funding the Loan Repayment Reserve Account.

(13) The Local Government 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 Local Government covenants that it will, under all conditions, complete and operate the Project to fulfill the public need.

(14) [* Include for refinancing loans.]The proceeds of any indebtedness, which will be refunded or refinanced by this loan, were used for the construction of this Project. Refinancing shall be in the proportion of the ratio of completed allowable construction work to the total construction work originally financed and shall be limited to unretired debt principal, excluding any reserves such as for debt service.

2.02. LEGAL AUTHORIZATION.

Upon signing this Agreement, the Local Government'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 Local Government and shall constitute a valid and legal obligation of the Local Government 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 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:

Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
CS120001-040	EPA	66.458	Capitalization Grants for State Revolving Funds	$	140131

(2) Audits.

(a) In the event that the Local Government expends $500,000 or more in Federal awards in its fiscal year, the Local Government must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Subsection 2.03(1) of this Agreement indicates that Federal funds are awarded through the Department by this Agreement. In determining the Federal awards expended in its fiscal year, the Local Government shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Local Government conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.

(b) In connection with the audit requirements addressed in the preceding paragraph (a), the Local Government shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

(c) If the Local Government expends less than $500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Local Government expends less than $500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from Local Government resources obtained from other than Federal entities).

(d) The Local Government may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at http://aspe.os.dhhs.gov/cfda.

(3) Report Submission.

(a) Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Subsection 2.03(2) of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Local Government directly to each of the following:

(i) The Department at each of the following addresses:

Don W. Berryhill, P.E., Chief
Bureau of Water Facilities Funding
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 3505
Tallahassee, Florida 32399-2400

Joe Aita, Audit Director
Office of the Inspector General
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 40
Tallahassee, Florida 32399-2400

(ii) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

(iii) Other Federal agencies and pass-through entities in accordance with Sections .320(e) and (f), OMB Circular A-133, as revised.

(b) Pursuant to Section .320(f), OMB Circular A-133, as revised, the Local Government shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department at the two addresses listed under Subsection 2.03(3)(a) of this Agreement.

(c) 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 OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

(d) Local Governments, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, or 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) Project-Specific Audit.

Within 12 months after the amendment establishing final Project costs, the Local Government 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 Local Government 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 62-503, Florida Administrative Code. A final determination of whether such costs are allowed shall be made by the Department.

(5) 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 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 Local Government 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 three years from the date the audit report is issued, unless extended in writing by the Department.

(6) Monitoring.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised (see audit requirements above), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, 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. In the event the Department 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.

ARTICLE III - LOAN REPAYMENT ACCOUNTS

3.01. LOAN DEBT SERVICE ACCOUNT.

The Local Government 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 Local Government 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 Local Government fails to make a required Monthly Loan Deposit, the Local Government's chief financial officer shall notify the Department of such failure. In addition, the Local Government agrees to budget, by amendment if necessary, payment to the Department from other legally available 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 Local Government, nor shall it be construed to give the Department the power to require the Local Government 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 Local Government's obligations pursuant to Section 8.01.

[If applicable.] 3.04. LOAN REPAYMENT RESERVE ACCOUNT.

A Loan Repayment Reserve Account shall be established with a Depository. The Local Government shall deposit into the account the reserve amount identified in Section 10.07 of this Agreement by the date set forth therein.

[If applicable.] 3.05. LOAN REPAYMENT RESERVE WITHDRAWALS.

The Loan Repayment Reserve Account shall be used by the Local Government to cure a temporary and unexpected deficiency in any Semiannual Loan Payment. The Local Government's chief financial officer shall promptly notify the Department upon any withdrawal from the account. Any unused portion of the Loan Repayment Reserve Account shall be applied to the final Semiannual Loan Payment(s) or used for discharging the Local Government's obligations pursuant to Section 8.01.

[If applicable.] 3.06. RESTORATION OF LOAN REPAYMENT RESERVE ACCOUNT.

A default causing the Local Government to use the Loan Repayment Reserve Account or the use of the account to prevent default shall result in the Local Government being responsible for making special deposits to restore the account. Special restoration deposits shall be made from the first moneys legally available to the Local Government for such purpose.

[If applicable.] 3.07. INVESTMENT OF LOAN REPAYMENT RESERVE MONEYS.

Moneys on deposit in the Loan Repayment Reserve 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 set for the final Semiannual Loan Payment provided, however, that moneys must be available for withdrawal, if necessary, pursuant to Section 3.05 of this Agreement. All investment income and earnings shall be credited to the Loan Repayment Reserve Account.

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 Local Government 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 Local Government 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. [* If applicable.] The Authorized Representative shall submit a clear site title certification by the date set forth in Section 10.07 of this 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.

4.05. PROHIBITION AGAINST ENCUMBRANCES.

The Local Government 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 amendment 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 Local Government 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 Local Government'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 Local Government for allowance costs and reimbursement of the incurred construction costs and related services. Disbursement of the allowance costs shall be made upon the Department's receipt of a disbursement request form. Up to seventy percent of the estimated allowance shall be disbursed after the Loan Agreement is signed. The remainder of the allowance shall be disbursed after all procurement contracts are executed and shall be adjusted to reflect

as-bid costs. The entire estimated allowance may be disbursed after the Loan Agreement is signed if the local government agrees to an allowance adjustment after all contracts have been bid. 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.

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

5.01. RATE COVERAGE.

The Local Government shall maintain rates and charges for the services furnished by the Water and Sewer Systems which [* Include as applicable -- together with impact fees, connection fees, and Special Assessments] 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 Local Government shall satisfy the coverage requirements of all senior and parity debt obligations.

5.02. NO FREE SERVICE.

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

5.03. MANDATORY CONNECTIONS.

The Local Government 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 Local Government 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 Local Government 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 Local Government 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 Local Government shall use its best efforts to collect all rates, fees and other charges due to it. The Local Government 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 Local Government 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 [if applicable]to fund the Loan Repayment Reserve Account or 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 Local Government by the Department.

(3) Any warranty, representation or other statement by, or on behalf of, the Local Government 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 Local Government, 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 Local Government, 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 Local Government, for the purpose of effecting a composition between the Local Government 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 Local Government under federal or state bankruptcy or insolvency law now or hereafter in effect and, if instituted against the Local Government, is not dismissed within 60 days after filing.

(7) Failure of the Local Government 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 Local Government to fulfill this Agreement.

(2) By action or suit in equity, require the Local Government 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 a penalty from any unobligated funds due to the Local Government under any revenue or tax sharing fund established by the State, except as otherwise provided by the State Constitution. The Department may impose a penalty in an amount not to exceed an interest rate of 18 percent per annum on the amount due in addition to charging the cost to handle and process the debt. 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 Financing Rate on the unpaid principal of the Loan to as much as 1.667 times the Financing 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.

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, will be prior and superior to any other lien, pledge or assignment with the following exception. All obligations of the Local Government under this Agreement shall be junior, inferior, and subordinate in all respects in right of payment and security to [* If applicable] 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 Local Government 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 Local Government 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 Local Government and will satisfy the coverage requirements of all other debt obligations secured by the Pledged Revenues. [* If applicable] 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 Local Government shall have paid, or shall have made provision for the timely payment of, the entire principal amount of the Loan, and as applicable, Loan Service Fee, interest, and Grant Allocation Assessment charges, 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 and the U.S. Environmental Protection Agency's Inspector General for inspection at any reasonable time after the Local Government 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 Local Government shall provide access to Project sites and administrative offices to authorized representatives of the Department at any reasonable time. The Local Government 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 Local Government. The Local Government 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 and the Loan Service Fee based on actual 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 Local Government has not drawn any of the Loan proceeds [*Whichever date is earlier - Option 1] within eighteen months after the effective date of this Agreement [* Option 2] by the date set in Section 10.07 for establishing the Loan Debt Service Account. If the Department unilaterally annuls this Agreement, the Department will provide written notification to the Local Government.

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.

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.

(5) [If applicable] Certification by the Authorized Representative that affirmative steps were taken to encourage Minority and Women's Business Enterprises participation in Project construction.

(6) [If applicable] Current certifications for Minority and Women's Business Enterprises participating in the contract. If the goals as stated in the plans and specifications are not met, documentation of actions taken shall be submitted.

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 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 Local Government shall provide additional funds to restore or replace the damaged portions of the facilities. Repair, construction or replacement shall be promptly completed.

ARTICLE X - DETAILS OF FINANCING

10.01. PRINCIPAL AMOUNT OF LOAN.

The estimated principal amount of the Loan is $_____, which consists of $_____ to be disbursed to the Local Government and $_____ of Capitalized Interest.

Capitalized Interest is not disbursed to the Local Government, but is amortized via periodic Loan repayments to the Department as if it were actually disbursed. Capitalized Interest is computed at the Financing 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.

[* If applicable] This project is a Segmented Project. Additional State Revolving Fund financing for the Project is dependent upon the availability of additional funds. The current funding limitations and future funding priority entitlement for Segmented Projects are set forth in the Chapter 62-503 of the Florida Administrative Code.

10.02. LOAN SERVICE FEE.

The Loan Service Fee is estimated as $_____ for the Loan amount authorized to date. The fee represents two percent of the Loan amount excluding Capitalized Interest amount; that is, two percent of $_____. The Loan Service Fee is estimated at the time of execution of the loan agreement and shall be revised with any increase or decrease amendment. The Loan Service Fee is based on actual Project costs and assessed in the final loan amendment.

10.03. FINANCING RATE.

The Financing Rate on the unpaid principal of the Loan amount specified in Section 10.01 is _____ percent per annum. The Financing Rate equals the sum of the interest rate and the Grant Allocation Assessment Rate. The interest rate is _____ percent per annum and the Grant Allocation Assessment rate is _____ percent per annum. However, if this Agreement is not executed by the Local Government and returned to the Department before _____ 1, 2005, the Financing Rate may be adjusted. A new Financing Rate shall be established for any 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 estimated Loan Service Fee and Loan Service Fee capitalized interest, if any, and the principle of level debt service. 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, the actual Loan Service Fee, 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. The Department will deduct the Loan Service Fee and any associated interest from the first available repayments following the final amendment.

Each Semiannual Loan Payment shall be in the amount of $_____ until the payment amount is adjusted by amendment. The interest and Grant Allocation Assessment portions of each Semiannual Loan Payment shall be computed, using their respective rates, on the unpaid balance of the principal amount of the Loan, which includes Capitalized Interest. Interest (at the Financing Rate) also shall be computed on the estimated Loan Service Fee. The interest and Grant Allocation Assessment on the unpaid balance shall be computed as of the due date of each Semiannual Loan Payment.

Semiannual Loan Payments shall be received by the Department beginning on _____ and semiannually thereafter on _____ 15 and _____ 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 $_____, which consists of the Loan principal, and the estimated Loan Service Fee with its Capitalized Interest, if any.

10.06. PROJECT COSTS.

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 construction bidding or mutually agreed upon Project changes. 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. The Local Government agrees to the following estimates of Project costs:

PROJECT COSTS

CATEGORY	COST($)	AUTHORIZED LOAN AMOUNT($) TO DATE
Allowance costs		*Line items*
Construction and Demolition		*may vary*
Contingencies		*Actual*
Technical Services After Bid Opening	0	*Disbursements*
SUBTOTAL (Disbursable Amount)	0	0
Capitalized Interest	0	0
TOTAL (Loan Principal Amount)	0	0

10.07. SCHEDULE.

The Local Government agrees by execution hereof:

(1) Completion of Project construction is scheduled for _____.

(2) [if applicable]The Loan Repayment Reserve Account shall be established and $_____ shall be deposited no later than _____. The Local Government shall use its own funds for the deposit. An additional Loan Repayment Reserve Account deposit will be required for any additional funding provided by amendment to this Agreement.

(3) The Loan Debt Service Account shall be established and Monthly Loan Deposits shall begin no later than _____.

(4) [* Include statement if clear site certification has not been provided] A clear site title certification shall be submitted no later than _____. [* Construction close-out date]

(5) The initial annual certification required under Subsection 2.01(10) of this Agreement shall be due _____. Thereafter the certification shall be submitted no later than September 30 of each year until the final Semiannual Loan Payment is made.

(6) The first Semiannual Loan Payment in the amount of $_____ shall be due _____.

10.08. SPECIAL CONDITIONS.

(1) [* A condition may concern a pending permit or reuse agreement, a Loan Repayment Reserve, etc.]

(2)

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ARTICLE XI - EXECUTION OF AGREEMENT

This Loan Agreement WW(*2) 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 Secretary of the Department 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 Secretary of the Department.

for

(*1)

_____

(*) Mayor

Attest

I attest to the opinion expressed in Section 2.02, entitled Legal Authorization, and as to form and legal sufficiency.

_____

(*) City Clerk

_____

(*) City Attorney

SEAL

for

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

_____

Secretary

_____

Date