

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20041252-UTL

1. REQUESTED MOTION:

ACTION REQUESTED:

Authorize the Chairman, on behalf of the BOCC, to approve Florida Department of Environmental Protection's (FDEP) Amendment No. 2 to State Revolving Fund (SRF) Loan Agreement No. CS12039232P for Lee County Wastewater Management Countywide Planning.

WHY ACTION IS NECESSARY:

Board approval is required.

WHAT ACTION ACCOMPLISHES:

Reschedules the loan repayment activities to provide Lee County additional time to complete preconstruction activities.

2. DEPARTMENTAL CATEGORY: 10
COMMISSION DISTRICT #: 5

C10H

3. MEETING DATE:

10-26-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED: _____

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Agmt. Amendment

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER: _____
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Utilities Division
- BY: Rick Diaz, P.E., Utilities Director
- DATE: 10/12/04

7. BACKGROUND:

The schedule specified in Article X, Paragraph 10.07 of the State Revolving Fund Loan Agreement calls for a Loan Repayment Reserve Account and a Loan Debt Service Account to be established by January 15th 2005. Monthly deposits to the Loan Debt Service Account equal to 1/6th of the Semiannual Payment are also to commence by January 15, 2005; and Certifications under Subsection 2.01(12) are to start by April 15, 2005.

In response to LCU's request, the FDEP has granted Lee County a one-year extension to complete preconstruction activities. Therefore, the attached Amendment No. 2 is required and is being submitted for approval.

Attachments: 3 Originals, Copy of September 28, 2004 Letter Requesting Extension

(Amendment 2 must be returned to FDEP by 10/26/2004)

MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

(A) DEPARTMENT DIRECTOR	(B) PURCH. OR CONTRACTS	(C) HUMAN RESOURCES	(D) OTHER	(E) COUNTY ATTORNEY	(F) BUDGET SERVICES				(G) COUNTY MANAGER
					OA	OM	Risk	GC	
<i>[Signature]</i> Date: 10-12-04	<i>[Signature]</i> Date: 10/12/04	N/A Date:	<i>[Signature]</i> J. Laracuente Date:	S. Covert Date:	<i>[Signature]</i> 10/13/04	<i>[Signature]</i> 10/13/04	<i>[Signature]</i> 10/13/04	<i>[Signature]</i> 10/13/04	<i>[Signature]</i> Date: 10-12-04

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

RECEIVED BY
COUNTY ADMIN: _____
COUNTY ADMIN
FORWARDED TO: _____
10/13/04
SPM

Rec. by CoAtty
Date: 10/12/04
Time: 9:50
Forwarded To:
Co. Atty
10/13/04



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

October 5, 2004

Mr. Rick Diaz, P.E.
Utilities Director
Lee County Board of Commissioners
Post Office Box 398
Ft. Myers, Florida 33902

Re: CS12039232P - Lee County
Transmission, Treatment and Deep Well Facility
Pine Island, Gateway/Airport Wastewater Treatment Plants

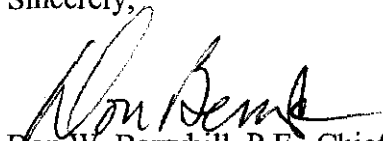
Dear Mr. Diaz:

Enclosed are three original copies of proposed Amendment 2 to your State Revolving Fund loan agreement. The amendment reschedules the loan repayment activities to provide the County additional time to complete preconstruction activities.

Please have the appropriate officials **sign and seal** the enclosed three copies and return them to us within three weeks at 2600 Blair Stone Road, Mail Station 3505, Tallahassee, Florida, 32399-2400. We will arrange for the Department Secretary to sign the document and mail a fully executed copy to you.

If you have any questions regarding this amendment, please call Melissa Dockstader at (850) 245-8358.

Sincerely,


Don W. Berryhill, P.E., Chief
Bureau of Water Facilities Funding

DWB/md

Enclosures

cc: S. John Calise - Camp Dresser & McKee, Inc.
William Hammond - Lee County Board of Commissioners
Juan B. Laracuente - Lee County Board of Commissioners
Douglas R. St. Cerny - Lee County Board of Commissioners

OCT 12 2004



LEE COUNTY
SOUTHWEST FLORIDA

COPY

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 479-8178

(239) 707-0733

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

September 28, 2004

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

SUBJECT: REQUEST FOR EXTENSION OF DATES BY WHICH LEE COUNTY UTILITIES IS TO ESTABLISH A LOAN REPAYMENT RESERVE ACCOUNT, ESTABLISH A LOAN DEBT SERVICE ACCOUNT, BEGIN MONTHLY PAYMENTS TO THE LOAN DEBT SERVICE ACCOUNT, AND BEGIN PROVIDING CERTIFICATIONS UNDER SUBSECTION 2.01(12) FOR PRECONSTRUCTION LOAN CS12039232P.

Dear Mr. Berryhill:

Under the terms of amendment 1 to preconstruction loan CS12039232P granted to Lee County, a Loan Repayment Reserve Account and a Loan Debt Service Account are to be established by January 15th 2005. Monthly installments equal to 1/6th of the Semiannual Payment are also to commence by January 15, 2005; and Certifications under Subsection 2.01(12) are to start by April 15, 2005. Lee County Utilities hereby respectfully requests an extension of 1 year for the above stated deadlines.

Subject loan was granted to Lee County based on six projects enumerated in your letter to Rick Diaz Utilities Director for Lee County dated July 1, 2002.

After receiving the preconstruction loan, operational exigencies forced Lee County to proceed with one project before receiving an authorization to incur costs. In another case, a joint venture, the entity directing and contracting the design and construction changed thereby disqualifying the project for an SRF loan. A third project had to be cancelled. The other three projects were delayed because Lee County Utilities' acquisition of the Gateway Waste Water Treatment Plan took much longer than expected.

SCANNED

Don Berryhill, P.E., Chief, Bureau of Water Facilities Funding-FDEP
September 28, 2004
Page 2

Currently only three of the original six projects still qualify for an SRF loan; the initial expansion of the Gateway WWTP, a transmission line feeding the Gateway WWTP, and the ultimate expansion of the Gateway WWTP.

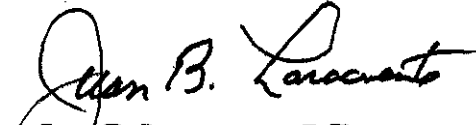
The most imminent of these projects are the initial expansion of the Gateway WWTP and the transmission line leading to the plant that have been combined into one Lee County Utilities project. This project is currently in design and the construction will be bid in February of 2005. Included herewith are a draft of the preliminary design report and a letter from Lee County Utilities' design consultant providing the current schedule, cost estimate and an acknowledgment that FDEP's Supplementary Conditions will be part of the specifications.

The one year extension requested would give Lee County Utilities time to bid and contract the project, allow us to apply for and finalize a construction loan, and roll the preconstruction loan into the construction loan. This would simplify and reduce both FDEP and Lee County Utilities' efforts and costs required to manage the SRF loan and repayments.

I am available to meet with you and/or your staff to answer any questions or discuss this request at your convenience.

Cordially,

LEE COUNTY UTILITIES



Juan B. Laracuate, P.E.
Senior Engineer

JBL:dht

cc: Thomas Mamott, P.E. - WO/A
Ivan Velez, P.E. - WO/A
Orlando Figueroa - WO/A
File/Scan Copy

**STATE REVOLVING FUND
AMENDMENT 2 TO LOAN AGREEMENT CS12039232P
LEE COUNTY**

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

WITNESSETH:

WHEREAS, the Department and the Local Government entered into a State Revolving Fund Loan Agreement, Number CS12039232P; and

WHEREAS, Loan repayment activities need rescheduling to give the Local Government additional time to complete preconstruction activities.

NOW, THEREFORE, the parties hereto agree as follows:

1. Unless repayment is further deferred by amendment of the Agreement, Semiannual Loan Payments as set forth in Section 10.05 shall be received by the Department beginning on July 15, 2006, and semiannually thereafter on January 15 and July 15 of each year until all amounts due under the Agreement have been fully paid.
2. The items scheduled under Subsections 10.07 (5), (6), and (7) of the Agreement are rescheduled as follows:
 - (5) Unless deferred by amendment, establish the Loan Repayment Reserve Account and deposit \$136,001, no later than January 15, 2006.
 - (6) Unless deferred by amendment, establish the Loan Debt Service Account and begin Monthly Loan Deposits no later than January 15, 2006.
 - (7) Unless deferred by amendment, provide certifications under Subsection 2.01(12) beginning April 15, 2006, and thereafter, no later than September 30 of each year until the final Semiannual Loan Repayment is made.

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

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

This Amendment 2 to Loan Agreement CS12039232P shall be executed in three or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

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

for
LEE COUNTY

Chairman, Board of County Commissioners

Attest

Approved as to Form and Legality

County Clerk

County Attorney

SEAL

for
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Secretary

Date