

## Regular []

## I. EXECUTIVE BRIEF

Date \_\_\_\_\_

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Expenses	<u>\$34,485.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>\$34,485.</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund 4044 Dept 720 Unit 7535 Object 7101

Is Item Included in Current Budget? Yes X No    Reporting Category N/A

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

One (1) time expenditure from user fees, connection fees, and balance brought forward.

C. Department Fiscal Review: Albina Morisset

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature]  
OFMB  
4/25/14

[Signature] 5/1/14  
Contract Development and Control  
4-30-14 B. Wheeler

### B. Legal sufficiency:

[Signature] 5/2/14  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

This summary is not to be used as a basis for payment.



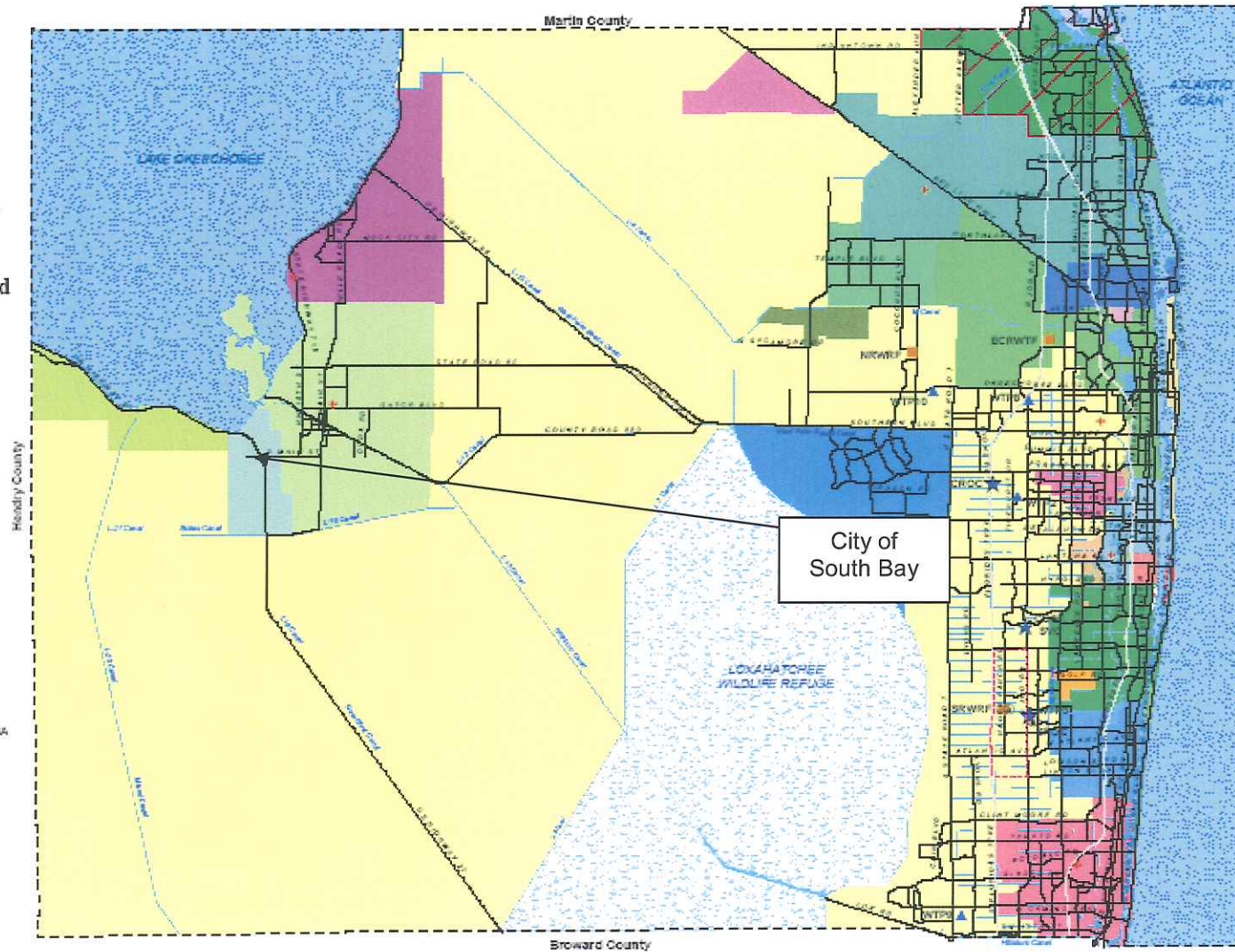
# Attachment 1



Palm Beach County  
Water Utilities  
Department  
Service Area (SA) and  
Major Facilities

## Legend

- P.B.C.W.U.D. SA
- MANDATORY RECLAIMED SA
- Palm Beach County Limits
- Administration
- Water Reclamation Facility
- Water Treatment Facility
- Wetlands



RESOLUTION 15-2014

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SOUTH BAY, FLORIDA AUTHORIZING THE MAYOR TO SIGN INTERLOCAL AGREEMENT REGARDING PAYMENT OF FDEP LOAN WW72707P, (RELEASING CITY DEBT IN THE AMOUNT OF \$28,068.10 AND A REIMBURSEMENT TO THE CITY IN THE AMOUNT OF \$6,416.92).

WHEREAS, South Bay entered into that certain Clean Water State Revolving Loan Agreement WW72707P with the Florida Department of Environmental Protection (the "Loan Agreement") (a copy of the Loan Agreement is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on October 01, 2009, the improvements were conveyed by the City to the Glades Utility Authority ("the GUA") yet the Loan Agreement and the obligation to repay the Loan, remained with South Bay; and

WHEREAS, on April 30, 2013, the improvements were conveyed by the GUA to the County; and


WHEREAS, the County agreed to pay off the remaining principal and interest on the Loan, in the amount of \$28,068.10 and to reimburse the City for loan payments made since the conveyance of the Improvements to the County, in the amount of \$6,416.92; and

WHEREAS, the City shall release the County from any and all claims related to the payment of the Loan and the County's ownership of the Improvements.

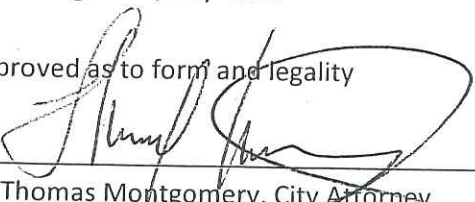
NOW, THEREFORE BE IT RESOLVED by the City Commission of South Bay that the Mayor is authorized to sign Interlocal Agreement regarding payment of FDEP Loan WW72707P, releasing the debt of the City in the amount of \$28, 068.10 and a reimbursement in the amount of \$6,416.92.


PASSED AND APPROVED THIS 01<sup>st</sup> day of April, 2014.

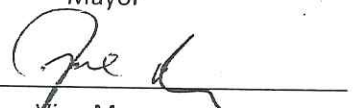
ATTEST:

  
Jessica Figueroa, City Clerk

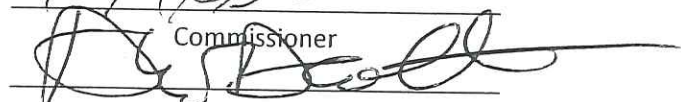
Approved as to form and legality

By:   
Thomas Montgomery, City Attorney

  
4/1/2014  
Mayor

  
Vice-Mayor

  
Commissioner

  
Commissioner

\_\_\_\_\_  
Commissioner



**INTERLOCAL AGREEMENT  
REGARDING PAYMENT OF FDEP LOAN WW72707P**

**THIS AGREEMENT** is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and the City of South Bay, a municipality organized under the laws of the State of Florida, hereinafter referred to as "South Bay."

**WITNESSETH**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, South Bay entered into that certain Clean Water State Revolving Loan Agreement WW72707P with the Florida Department of Environmental Protection (the "Loan Agreement") (a copy of the Loan Agreement is attached hereto and incorporated herein as **Exhibit "A"**); and

**WHEREAS**, the Loan Agreement set forth the responsibilities of South Bay and the Florida Department of Environmental Protection ("FDEP") regarding a loan to be utilized by South Bay (the "Loan") for certain improvements to its water and wastewater system (the "Improvements"); and

**WHEREAS**, on October 1, 2009, the Improvements were conveyed by South Bay to the Glades Utility Authority (the "GUA") yet the Loan Agreement and the obligation to repay the Loan, remained with South Bay; and

**WHEREAS**, On April 30, 2013, the Improvements were conveyed by the GUA to the County; and

**WHEREAS**, as the County is the owner of the Improvements, the County has benefitted from the Loan; and

**WHEREAS**, the County is agreeable to pay off the remaining principal and interest on the Loan, and to reimburse South Bay for Loan payments made since the conveyance of the Improvements to the County; and

**WHEREAS**, in exchange for the County paying off the Loan and the reimbursement of South Bay for the Loan payments made since the conveyance of the Improvements to the County, South Bay shall release the County from any and all claims related to the payment of the Loan and the County's ownership of the Improvements.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the County and South Bay agree as follows:

1. **Recitals.** The foregoing statements are true and correct and are incorporated herein as if fully set forth.
2. **Term.** This Agreement shall commence on the Effective Date and shall continue until the parties have performed all of the obligations herein, or until September 30, 2014, whichever occurs first.
3. **Effective Date.** This Agreement shall become effective upon approval by both parties. The Effective Date of this Agreement shall be the date this Agreement is ratified by the Palm Beach County Board of County Commissioners.
4. **Final Loan Payment to FDEP.** Attached hereto and incorporated herein as **Exhibit "B"** is a payoff letter from FDEP setting forth the requirements of full payment of the Loan. County shall make the required full payment within thirty (30) days following the Effective Date of this Agreement.
5. **Payment to South Bay.** Following the transfer of the Improvements to the County on April 30, 2013, South Bay has made \$6,416.92 in Loan payments to FDEP. County shall reimburse South Bay the full amount of these Loan payments within thirty (30) days of the Effective Date of this Agreement.
6. **Indemnification.** Each party shall be liable for its own actions and negligence and, to the extent permitted by law, County shall indemnify, defend, and hold harmless South Bay against any actions, claims, or damages arising out of County's negligence in connection with this Agreement, and South Bay shall indemnify, defend, and hold harmless County against any actions, claims, or damages arising out of South Bay's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful, or intentional acts or omissions.
7. **No Transfer of Powers.** Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an agreement to make payment as authorized in Florida Statutes, Chapter 163. The governing bodies for County and South Bay shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability; exemption from laws, ordinances, and rules; and pensions and relief, disability, workers compensation and other benefits that apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.



10. **Force Majeure.** In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, disorder or demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe, neither party shall be liable for such non-performance.
11. **Remedies.** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter.
12. **Successors and Assigns.** The County and South Bay each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the County nor South Bay shall assign, sublet, convey, or transfer its interest in this Agreement without prior written consent of the other.
13. **Waiver.** The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have for any subsequent breach, default, or non-performance, and said party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.
14. **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
15. **Notice.** All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to South Bay, shall be mailed or delivered to:

City of South Bay  
Attention: City Manager  
335 S.W. 2<sup>nd</sup> Avenue  
South Bay, FL 33493

And if to the County, shall be mailed or delivered at:

Water Utilities Director  
Palm Beach County Water Utilities Department  
8100 Forest Hill Boulevard  
West Palm Beach, FL 33413

16. **Filing.** This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County.
17. **Amendment and Modification.** This Agreement may only be amended, modified, changed, supplemented or discharged by an instrument in writing signed by the parties hereto.
18. **Entirety of Agreement.** The County and South Bay agree that this Agreement and any Exhibits set forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superceded or otherwise altered, except by written instrument executed by the parties.
19. **Non-Discrimination.** The County and South Bay assure and certify that they shall comply with Title VII of the Civil Rights Act of 1964, as amended, and Palm Beach County Resolution No. R92-13, and shall not discriminate against any individual on the basis of their race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, disability, or gender identity or expression, during their performance of this Agreement.
20. **No Third Party Beneficiaries.** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or South Bay.
21. **Palm Beach County Office of the Inspector General.** Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421, - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**



IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement.

ATTEST:

SHARON R. BOCK  
CLERK AND COMPTROLLER

PALM BEACH COUNTY, BY ITS  
BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

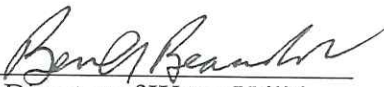
By: \_\_\_\_\_  
Priscilla A. Taylor, Mayor

(SEAL)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

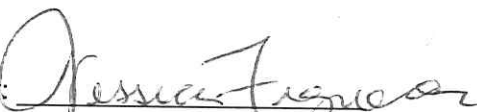
APPROVED AS TO TERMS  
AND CONDITIONS


By: \_\_\_\_\_  
County Attorney

By:   
Director of Water Utilities

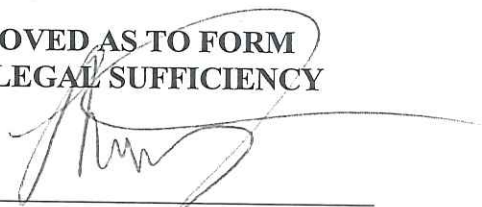
ATTEST:

CITY OF SOUTH BAY

By:   
Clerk of South Bay

By:  4/11/2014  
Esther E. Berry, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:   
South Bay Attorney

**EXHIBIT "A"**  
**LOAN AGREEMENT WW72707P**

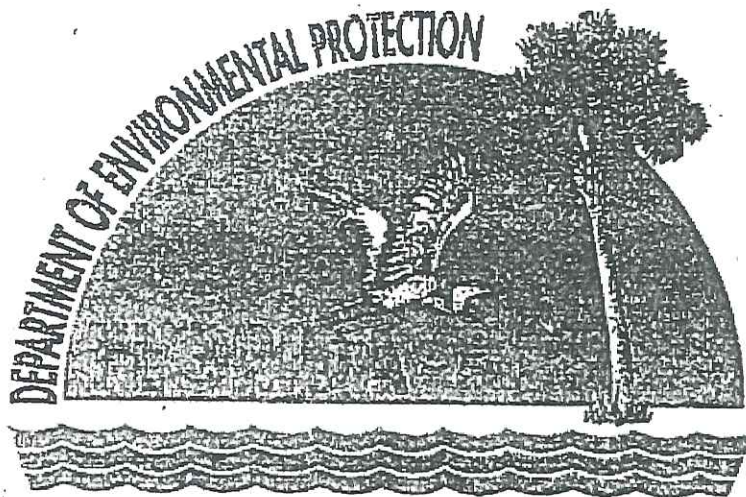


STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE REVOLVING LOAN PROGRAM  
for  
Point Source Water Pollution Control

City of South Bay WWF  
WW12072707P

LOAN APPLICATION



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

ATTACHMENT 1  
LIST OF ACTIVITIES

City of South Bay

Initial Technical Requirement Summary from RFI (same)

The City of South Bay, in Palm Beach County Florida owns a municipal wastewater treatment plant located at 451 North New River Canal Road. This facility is under a "Final Notice" from the Florida Department of Environmental Protection (FDEP) due to non-compliance regarding treatment and maintenance. The overall objective of this project is to replace the current facility so that it is in full compliance with state regulations while optimizing and reducing to the degree possible capital investment and annual operational and maintenance expenses associated with it. The facility is permitted by the Florida Department of Environmental Protection (DEP) to treat and discharge 1.42 million gallons a day (MGD) of wastewater. FDEP has indicated that under no circumstances, due to its extremely degraded condition, will the Operating Permit, due to expire in 2004, be renewed for the existing treatment system. Therefore, a replacement of the system's facilities is required.

A new 1.5 MGD Activated-Sludge treatment plant will be constructed on the existing site to accommodate the requirements of the City. Also to be replaced is the existing head-works structure, which is used to provide primary screening and the effluent filtration system. The existing effluent disposal system utilizing the Belle Glade injection well via South Bay's 1.33 mgd effluent pump station will remain unchanged. The new treatment plant, which is proposed to be either a poured in place concrete facility or a prefabricated steel treatment facility will require an estimated \$2 million and enable the City to address the concerns of DEP and provide proper treatment of the city's wastewater.

FDEP has also expressed concern regarding the excessive inflow and infiltration (I&I) of groundwater and surface water into the city's wastewater collection system. The amount of I&I the city experiences is as high as 50% to 80% of total facility influent and heavy rainfall events can result in a tripling of wastewater flow to the plant. The condition causes hydraulic overloading in the plant, resulting in solids wash-out and non-compliance with regards to treatment. FDEP has indicated that the impact of I&I to the system must be reduced. To address the problem, the collection system requires inspection and testing of manholes and lift stations, as well as a thorough evaluation of approximately 5,500 feet of in-ground piping. The evaluation will detail the locations of the greatest amounts of I&I, which will then be repaired with slip-liners, grouting, joint repairs and point repairs. Inspections and repairs to the collection system will cost upward of \$1 million.

**Estimated Pre-Construction Activities and Budget**

Surveys	\$ 45,000
Effluent Studies	\$ 25,000
Permitting	\$ 35,000
Design	\$ 130,000
Facility Planning	\$ 83,000
Program Planning/Administration	\$ 30,000
<b>Total Pre-Construction</b>	<b>\$348,000</b>



#### 4.02. TITLE TO PROJECT SITE.

No later than the date established by Section 10.07, the Local Government shall have an interest in real property sufficient for the construction and location of any facility planned and designed through Preconstruction Activities free and clear of liens and encumbrances which would impair the usefulness of such sites for the intended use. If a limited site title certification is accepted at that date, the Department shall establish a date for submittal of a clear site title certification in an amendment or new agreement which provides financing for construction of affected facilities.

#### 4.03. RESERVED.

#### 4.04. RESERVED.

#### 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 or subsequent loans, the Local Government covenants that it has obtained, or will obtain, sufficient moneys from other sources to complete the Preconstruction Activities. The Local Government also covenants that if additional Loan financing is provided for Construction Related Costs by amendment of this Agreement, it will obtain sufficient moneys from other sources as necessary to complete the Project.

#### 4.07. CLOSE-OUT.

The Department may conduct a final inspection of the Preconstruction Activities records, or if this Agreement is amended to fund Construction Related Costs, the Department shall conduct a final inspection of the 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. After the Department establishes the final allowance to be financed by the Loan, the amount may be adjusted by amendment. The Loan principal shall be reduced by any excess over the amount required to pay the approved allowance 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 an allowance based on planning, engineering, and administration costs.

Requests by the Local Government for disbursements of the preconstruction funds shall be made using the Department's disbursement request form but shall not require documentation of actual costs incurred. Up to twenty percent of the allowance shall be disbursed after a Loan Agreement is signed. Up

to fifty percent of the allowance shall be disbursed after the planning documentation has been completed and accepted. The remainder of the allowance shall be disbursed after all procurement contracts are executed and shall be adjusted to reflect as-bid costs. The Department may disburse the entire estimated allowance amount after acceptance of the plans and specifications or completion of the request for proposals, if the Local Government agrees to an allowance adjustment once all contracts have been bid.

Disbursements for Construction Related Costs shall occur only as a result of an amendment to this Agreement. The following allowance amount will be disbursed after the specified milestone events unless the allowance is reduced pursuant to Section 10.06:

Milestone Event	Amount
Loan Agreement executed	\$ 69,522 ✓
Department acceptance of planning documents	173,805
Department acceptance of executed procurement contracts	104,283
Total	\$ 347,610

#### 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 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 therefore 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 materially and 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.



**EXHIBIT "B"**  
**FDEP PAYOFF STATEMENT**

**Report: CW Audit Report as of 5/10/2014**

**Project Sponsor:** South Bay

**Funding Number:** WW 72707P

**CFDA: 66.458**

**FEID Number:** 59-6000429

**Project Description:** I/I Correction, Sewer Rehab & Treatment

For the purposes of the Single Audit Act, disbursements for this loan are considered federal funds under a grant from the Environmental Protection Agency, Capitalization Grants for the State Revolving Fund.

	Loan	PF	Total
Amount Disbursed Through 5/10/2014:	69,522.00	0.00	69,522.00
Amount Disbursed 5/11/2013 - 5/10/2014:	0.00	0.00	0.00
Loan Principal Service Fees Collected Through 5/10/2014:			0.00
Loan Principal Service Fees Collected 5/11/2013 - 5/10/2014:			0.00
Capitalized Interest Through 5/10/2014:			2,992.76
Non-Principal Service Fees Assessed Through 5/10/2014:			1,390.00
Non-Principal Service Fees Assessed 5/11/2013 - 5/10/2014:			0.00
Non-Principal Service Fee Cap Int Through 5/10/2014:			0.00
Principal Paid Through 5/10/2014:			44,637.54
Principal Paid 5/11/2013 - 5/10/2014:			5,957.54
Interest (and GAA) Paid Through 5/10/2014:			3,667.46
Serv. Fee Interest Paid Through 5/10/2014:			0.05
Interest (and GAA) Paid 5/11/2013 - 5/10/2014:			459.38
Serv. Fee Interest Paid 5/11/2013 - 5/10/2014:			0.00
Non-Principal Service Fee Charges Paid 5/11/2013 - 5/10/2014:			0.00
Non-Principal Service Fee Charges Paid Through 5/10/2014:			1,390.00
Unpaid Principal as of 5/10/2014:			27,877.22
Unpaid Service Fee Charges as of 5/10/2014:			0.00
Interest Due as of 5/10/2014:			95.44
Gtr. All. Assmt. Due as of 5/10/2014:			95.44
Serv. Fee Interest Due as of 5/10/2014:			0.00

Total Due as of 5/10/2014:	28,068.10
Repayments Made as of 5/10/2014:	11
Repayments Remaining as of 5/10/2014:	0
Present Repayment Amount:	3,208.46
Semi-Annual Repayment Dates:	May 15 & November 15
Proposed Date of First Repayment:	15-NOV-08