

RESOLUTION NO. 2014-325

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PARKER, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL INTERLOCAL AGREEMENT WITH BAY COUNTY, FLORIDA AND THE CITIES OF SPRINGFIELD AND CALLAWAY PROVIDING FOR WHOLESALE WASTEWATER TREATMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL TREATMENT CONTRACT WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKER, FLORIDA:

SECTION 1. FINDINGS

(A) The City of Parker, Florida (the "City") has previously entered into an agreement (the "Existing Interlocal Agreement", as more fully described herein) with the Cities of Springfield and Callaway and Bay County, Florida, to construct a new wastewater treatment facility to be owned by the City and each of the aforesaid entities (collectively, the "Owners") and operated by an operator for the benefit of the Owners and to provide wholesale wastewater treatment services to such Owners and their citizens (such new treatment plant, together with certain other improvements described in said Existing Interlocal Agreement being referred to herein as the "System").

(B) In connection with the transactions contemplated by said Existing Interlocal Agreement, the City has previously entered into a Treatment Contract (the "Prior Treatment Contract") evidencing the City's obligation to make payments required by the terms of the Existing Interlocal Agreement.

(C) In connection with the transactions contemplated by the Existing Interlocal Agreement, the City authorized the City of Callaway and Bay County, Florida (the "Issuer") to jointly issue bonds (the "Series 2004 Bonds") for purposes of refinancing the acquisition and construction of the System, refunding certain outstanding indebtedness and financing certain other costs described in the Existing Interlocal Agreement.

(D) The City has been informed that the Issuer intends to issue its Wastewater Revenue Refunding Note, Series 2014 (the "2014 Note") to achieve certain debt service savings,

and desires in connection therewith to amend the Existing Interlocal Agreement and the Prior Treatment Contract in certain respects.

SECTION 2. DEFINITIONS. Capitalized terms used in this Resolution shall have the meanings set forth in the Existing Interlocal Agreement, except as otherwise provided herein.

SECTION 3. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of Chapter 166, Florida Statutes, the City Charter of the City of Parker and other applicable provisions of law. This Resolution shall repeal or supersede any and/or all Charter provisions, ordinances or resolutions, or portions thereof, in conflict herewith.

SECTION 4. AUTHORIZATION OF EXECUTION OF SECOND SUPPLEMENTAL INTERLOCAL AGREEMENT. The City hereby authorizes and directs the Mayor to execute, and the City Clerk to attest under the corporate seal of the City, the Second Supplemental Interlocal Agreement and to deliver the Second Supplemental Interlocal Agreement to the other parties thereto, and does hereby authorize and direct the execution, sealing and delivery of the Second Supplemental Interlocal Agreement. All of the provisions of the Second Supplemental Interlocal Agreement, when executed and delivered by the other parties thereto, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein, and the Second Supplemental Interlocal Agreement shall be in substantially the form of the Second Supplemental Interlocal Agreement attached hereto as Appendix A with such changes, amendments, modifications, omissions and additions, including the date of such Second Supplemental Interlocal Agreement, as may be approved by said Mayor. Execution by the Mayor of the Second Supplemental Interlocal Agreement shall be deemed to be conclusive evidence of approval of such changes.

SECTION 5. AUTHORIZATION OF EXECUTION OF SUPPLEMENTAL TREATMENT CONTRACT. The City hereby authorizes and directs the Mayor to execute, and the City Clerk to attest under the corporate seal of the City, the Second Supplemental Wastewater Treatment Contract (the "Supplemental Treatment Contract") and to deliver the Supplemental Treatment Contract to Bay County, Florida, as the operator of the System (the "Operator"), and does hereby authorize and direct the execution, sealing and delivery of the Supplemental Treatment Contract. All of the provisions of the Supplemental Treatment Contract, when executed and delivered by the City as authorized herein and when duly authorized, executed and delivered by the Operator, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein, and the Supplemental Treatment Contract shall be in substantially the form of the Supplemental Treatment Contract attached hereto as Appendix B with such changes, amendments, modifications, omissions and additions, including the date of such Supplemental Treatment Contract, as may be approved by said Mayor. Execution by the Mayor of the Supplemental Treatment Contract shall be deemed to be conclusive evidence of approval of such changes.

SECTION 6. GENERAL AUTHORITY. The members of the City Council of the City and the officers, attorneys and other agents or employees of the City are hereby authorized to do all acts and things required of them by this Resolution, the Interlocal Agreement, the

Treatment Contract, or the documents securing the Series 2014 Note, or desirable or consistent with the requirements hereof or the Interlocal Agreement, the Treatment Contract, or the documents securing the Series 2014 Note for the full punctual and complete performance of all the terms, covenants and agreements contained herein or in the Interlocal Agreement, the Treatment Contract, or the documents securing the Series 2014 Note, and each member, employee, attorney and officer of the City is hereby authorized and directed to execute and deliver any and all papers and instruments and to be and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder.

SECTION 7. SEVERABILITY AND INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Interlocal Agreement.

SECTION 8. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

The Mayor thereupon declared this Resolution duly passed and enacted on this 3rd day of June, 2014.

CITY OF PARKER, FLORIDA

(SEAL)

By: Richard L. Myer
Mayor

ATTEST:

Nancy Howell
Clerk

APPROVAL AS TO FORM AND CONTENT:

By: [Signature]
City Attorney

APPENDIX A
SECOND SUPPLEMENTAL INTERLOCAL AGREEMENT

**SECOND SUPPLEMENT TO
MILITARY POINT ADVANCED WASTEWATER
TREATMENT FACILITY INTERLOCAL AGREEMENT**

WHEREAS, the Board of County Commissioners of Bay County, Florida and the cities of Callaway, Parker, Springfield and the Town of Cedar Grove, acting by and through their respective boards of elected officials, have previously entered into that certain Military Point Advanced Wastewater Treatment Facility Interlocal Agreement, dated as of September 12, 1996, as supplemented by the First Supplement to Military Point Advanced Wastewater Treatment Facility Interlocal Agreement, dated as of December 1, 2004 (collectively, the "Existing Interlocal Agreement"); and

WHEREAS, said Existing Interlocal Agreement provides for the ownership and operation of wastewater treatment system described therein; and

WHEREAS, the Town of Cedar Grove was dissolved pursuant to Section 165.061, Florida Statutes, and its obligations under the Existing Interlocal Agreement were assumed by Bay County; and

WHEREAS, the parties hereto desire to amend said Existing Interlocal Agreement to accommodate the refunding of certain indebtedness incurred to refinance improvements to said System;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the mutual covenants and conditions hereafter expressed, and reliance upon these presents, the parties hereto agree as follows:

SECTION 1. DEFINITIONS. The following defined terms set forth in the Existing Interlocal Agreement are hereby amended to read as follows:

"Debt Service Component" shall mean that component of an Owner's Treatment Rate budgeted by the Operator which shall equal the respective Owner's share of anticipated Debt Service for the Fiscal Year under consideration, apportioned among the Owners as follows: (i) all costs associated with the 2014 Note shall be apportioned on the same basis as previously apportioned under the Existing Interlocal Agreement with respect to the 2004 Bonds, proportionately reduced to reflect the reduced debt service associated therewith; (ii) all sums due under or attributable to a SRF Loan Agreement shall be apportioned on the basis of the distribution of the proceeds thereof; (iii) all costs of financing any Mandated Capital Improvements shall be apportioned on the basis of then current Capacity Allocation; and (iv) any other Debt Service shall be apportioned as the Owners may

unanimously agree. Any Owner may at any time deposit with the Operator cash to prepay all or any portion of any of the foregoing debt allocated to such Owner, and the Operator shall use its best efforts to cause to be refunded, on a current or advance basis, in the manner and at the lowest reasonable cost and at the earliest reasonable opportunity, all determined in the Operator's sole discretion, such debt and reduce such Owner's Debt Service Component proportionately. The prepaying Owner shall be responsible for all costs and expenses reasonably incurred by the Operator, the Issuer, or the Owner in connection with such prepayment.

"1996 Loan Agreement" means that certain Loan Agreement by and between the Operator as borrower and the Issuer as lender, dated as of October 1, 1996, evidencing the loan of the net proceeds (after costs of issuance apportioned between the Owners on the basis of Bond proceeds utilized) of the 1996 Bonds, as supplemented by the First Supplemental Loan Agreement, dated as of December 1, 2004, reflecting the refunding of the 1996 Bonds by the 2004 Bonds, and as supplemented by the Second Supplemental Loan Agreement, dated as of June 1, 2014, reflecting the refunding of the 2004 Bonds by the 2014 Note.

"2014 Note" means the Issuer's Wastewater System Revenue Refunding Note, Series 2014, issued for the purpose of refunding the 2004 Bonds.

SECTION 2. SUPPLEMENTAL TREATMENT CONTRACTS. The form of Second Supplemental Wastewater Treatment Contract attached hereto as Exhibit A, to be entered into by each of the Owners in connection with the issuance of the Series 2014 Note, is hereby approved.

SECTION 3. APPROVAL OF 2014 LOAN. The 2014 Loan (as defined in the 1996 Loan Agreement, as amended), is hereby approved for purposes of Article X of the Existing Interlocal Agreement.

SECTION 4. EXISTING INTERLOCAL AGREEMENT TO REMAIN IN FULL FORCE AND EFFECT. Except as amended hereby, the Existing Interlocal Agreement shall remain in full force and effect.

SECTION 5. FILING. Upon the execution of this Agreement, such Agreement shall be filed with the Clerk of the Circuit Court of Bay County.

OWNERS:

BAY COUNTY, FLORIDA, acting by and through its
Board of County Commissioners

Attest:

Clerk

Chairman

Date Approved June ____, 2014

Approved as to Form and Legality:

County Attorney

CITY OF CALLAWAY, a municipal corporation
acting by and through its City Commission

Attest:

City Clerk

Mayor

Date Approved June ____, 2014

Approved as to Form and Legality:

City Attorney

CITY OF SPRINGFIELD, a municipal corporation
acting by and through its City Commission

Attest:

City Clerk

Mayor Pro Tem

Date Approved June ____, 2014

Approved as to Form and Legality:

City Attorney

Attest:

CITY OF PARKER, a municipal corporation acting
by and through its City Commission

City Clerk

Mayor
Date Approved June ____, 2014

Approved as to Form and Legality:

City Attorney

OPERATOR:

BAY COUNTY, FLORIDA, acting by and through its
Board of County Commissioners

Attest:

Clerk

Chairman
Date Approved June ____, 2014

Approved as to Form and Legality:

County Attorney

EXHIBIT A

FORM OF SECOND SUPPLEMENTAL WASTEWATER TREATMENT CONTRACT



SECOND SUPPLEMENTAL WASTEWATER TREATMENT CONTRACT

THIS SECOND SUPPLEMENTAL WASTEWATER TREATMENT CONTRACT (the "Supplemental Treatment Contract") is made and dated as of the 1st day of June, 2014, by and between Bay County, Florida, acting through its Board of County Commissioners (the "Operator") as the operator of the System pursuant to the Military Point Advanced Wastewater Treatment Facility Interlocal Agreement dated as of September 12, 1996, as amended (the "Owner Interlocal Agreement") and the City of Parker, Florida (the "Customer");

WHEREAS, the Operator and Customer are parties to the Owner Interlocal Agreement, and have previously entered into that certain Wastewater Treatment Contract (the "Prior Treatment Contract"), dated October 1, 1996, as supplemented by the First Supplemental Wastewater Treatment Contract, dated December 1, 2004, setting forth the terms and conditions in which the Customer pays for committed wastewater treatment capacity and for wastewater treatment services for wastewater collected by the Customer from its customers located within its municipal limits and service area (the "Collection System"); and

WHEREAS, the City of Callaway, Florida and Bay County, Florida (jointly, the "Issuer") have previously issued their Wastewater System Revenue Refunding Bonds, Series 2004 (the "Series 2004 Bonds"), the proceeds of which were loaned to the Operator to repay certain indebtedness and to finance the cost of certain improvements to the System, which Series 2004 Bonds are secured in part by payments made pursuant to the Prior Treatment Contract; and

WHEREAS, the Issuer desires to refund the Series 2004 Bonds by means of issuance of its Wastewater System Revenue Refunding Note, Series 2014 (the "Series 2014 Note"), in order to achieve certain debt service savings; and

WHEREAS, the Operator and the Customer desire to amend and supplement the Prior Treatment Contract to reflect such refinancing and provide for the pledge of amounts due under the Treatment Contract for the benefit of the Series 2014 Note, and to modify certain covenants contained in the Prior Treatment Contract;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, it is agreed by and between the parties hereto as follows:

SECTION 1. DEFINITIONS. Except as otherwise set forth herein, capitalized terms used herein shall have the meanings set forth in the Prior Treatment Contract and in the Second Supplemental Trust Indenture, dated as of June 1, 2014, entered into by the Issuer and U.S. Bank National Association, as trustee, in connection with the issuance of the Series 2014 Note.

SECTION 2. WASTEWATER RATES AND CHARGES. Section 5a of the Prior Treatment Contract is hereby amended to read as follows: The Customer agrees to pay to the

Operator, for wastewater treatment services, a monthly Treatment Rate that consists of the Operation and Maintenance Fee Component, the Debt Service Component, the Renewal and Replacement Component, the Rate Reserve Component and such amount as is necessary to cover a payment event under Section 5.29 (iii) of the Owner Interlocal Agreement.

- a. Debt Service Component. The Debt Service Component shall be charged monthly and is a sum equal to the Customer's share of Debt Service as calculated on a monthly basis. The Customer's share of Debt Service is determined by adding the portions of the Debt Service due and payable pursuant to the Loan Agreement and the SRF Loan Agreement, all as set forth in the Owners Interlocal Agreement and (i) and (ii) below:
- (i) As to that portion of the Debt Service due and payable pursuant to the Loan Agreement for the net proceeds of the Series 2014 Note, an amount equal to \$_____ which relates to the portion of the Series 2004 Bond proceeds that were used for the benefit of the Customer, all as shown on Exhibit A attached hereto and incorporated herein by reference; plus
 - (ii) As to that portion of the Debt Service due and payable pursuant to the SRF Loan Agreement for the net proceeds of the SRF loan, an amount equal to the sum of the Debt Service due on an amount equal to \$_____ of loan proceeds that were used for the benefit of the Customer based on the percentages shown on Exhibit A, pursuant to the initial loan agreement dated September 30, 1996, and subsequent SRF loans received to fund portions of the 1996 Project on behalf of the Customer.

The Debt Service Component shall be adjusted, from time to time, to reflect:

- (i) Debt Service on subsequent additional Secured Indebtedness, and
- (ii) prepayment by the Customer as provided below.

The Customer may reduce its Debt Service Component by prepaying debt allocated to said Customer, including any negative arbitrage costs associated with prepaying debt related to the Series 2014 Note, in accordance with the definition of "Debt Service" as set forth in the Owner Interlocal Agreement. The prepaying Customer shall be responsible for all costs and expenses reasonably incurred by the Operator, the Issuer or the obligor in connection with such prepayment.

- b. Rate Reserve Component. The Rate Reserve Component shall be calculated and charged monthly by multiplying the Customer's Debt Service Component for that month by .15 (15/100th); provided, that for purposes of this subsection b, "Debt

Service Component" shall be deemed to exclude any debt service on any Secured Indebtedness other than the Indebtedness evidenced by the Second Supplemental Loan Agreement to the extent the Rate Reserve Component attributable to the Indebtedness evidenced by the Second Supplemental Loan Agreement equals or exceeds the amount of the Rate Reserve Component which would otherwise be attributable to any other secured Indebtedness.

SECTION 3. PRIOR TREATMENT CONTRACT TO REMAIN IN EFFECT. Except to the extent amended hereby, the Prior Treatment Contract shall remain in full force and effect.

SECTION 4. SEVERABILITY. If for any reason whatever, any part of this Second Supplemental Wastewater Treatment Contract is determined to be invalid or unenforceable, the remainder of this Second Supplemental Wastewater Treatment Contract shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have placed their hands and seal as of the date first above written.

OPERATOR:

BAY COUNTY, FLORIDA, acting by and through its Board of County Commissioners

Attest:

Approved as to form and legality:

County Attorney

Attest:

Approved as to form and legality:

Chairman

Date Approved: June ____, 2014

CUSTOMER:

CITY OF PARKER, FLORIDA

Mayor

EXHIBIT A

	<u>Callaway</u>	<u>Parker</u>	<u>Springfield</u>	<u>Bay County</u>
Bonds	24.26%	14.30%	40.32%	21.12%
SRF Loan #1	32.0712%	10.7769%	18.9568%	38.1951%
SRF Loan #2	29.4660%	13.3989%	13.4066%	43.7285%

APPENDIX B

SECOND SUPPLEMENTAL TREATMENT CONTRACT

SECOND SUPPLEMENTAL WASTEWATER TREATMENT CONTRACT

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WHEREAS, the Operator and Customer are parties to the Owner Interlocal Agreement, and have previously entered into that certain Wastewater Treatment Contract (the "Prior Treatment Contract"), dated October 1, 1996, as supplemented by the First Supplemental Wastewater Treatment Contract, dated December 1, 2004, setting forth the terms and conditions in which the Customer pays for committed wastewater treatment capacity and for wastewater treatment services for wastewater collected by the Customer from its customers located within its municipal limits and service area (the "Collection System"); and

WHEREAS, the City of Callaway, Florida and Bay County, Florida (jointly, the "Issuer") have previously issued their Wastewater System Revenue Refunding Bonds, Series 2004 (the "Series 2004 Bonds"), the proceeds of which were loaned to the Operator to repay certain indebtedness and to finance the cost of certain improvements to the System, which Series 2004 Bonds are secured in part by payments made pursuant to the Prior Treatment Contract; and

WHEREAS, the Issuer desires to refund the Series 2004 Bonds by means of issuance of its Wastewater System Revenue Refunding Note, Series 2014 (the "Series 2014 Note"), in order to achieve certain debt service savings; and

WHEREAS, the Operator and the Customer desire to amend and supplement the Prior Treatment Contract to reflect such refinancing and provide for the pledge of amounts due under the Treatment Contract for the benefit of the Series 2014 Note, and to modify certain covenants contained in the Prior Treatment Contract;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, it is agreed by and between the parties hereto as follows:

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- (i) As to that portion of the Debt Service due and payable pursuant to the Loan Agreement for the net proceeds of the Series 2014 Note, an amount equal to \$_____ which relates to the portion of the Series 2004 Bond proceeds that were used for the benefit of the Customer, all as shown on Exhibit A attached hereto and incorporated herein by reference; plus
 - (ii) As to that portion of the Debt Service due and payable pursuant to the SRF Loan Agreement for the net proceeds of the SRF loan, an amount equal to the sum of the Debt Service due on an amount equal to \$_____ of loan proceeds that were used for the benefit of the Customer based on the percentages shown on Exhibit A, pursuant to the initial loan agreement dated September 30, 1996, and subsequent SRF loans received to fund portions of the 1996 Project on behalf of the Customer.

The Debt Service Component shall be adjusted, from time to time, to reflect:

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The Customer may reduce its Debt Service Component by prepaying debt allocated to said Customer, including any negative arbitrage costs associated with prepaying debt related to the Series 2014 Note, in accordance with the definition of "Debt Service" as set forth in the Owner Interlocal Agreement. The prepaying Customer shall be responsible for all costs and expenses reasonably incurred by the Operator, the Issuer or the obligor in connection with such prepayment.

- b. Rate Reserve Component. The Rate Reserve Component shall be calculated and charged monthly by multiplying the Customer's Debt Service Component for that month by .15 (15/100th); provided, that for purposes of this subsection b, "Debt

Service Component" shall be deemed to exclude any debt service on any Secured Indebtedness other than the Indebtedness evidenced by the Second Supplemental Loan Agreement to the extent the Rate Reserve Component attributable to the Indebtedness evidenced by the Second Supplemental Loan Agreement equals or exceeds the amount of the Rate Reserve Component which would otherwise be attributable to any other secured Indebtedness.

SECTION 3. PRIOR TREATMENT CONTRACT TO REMAIN IN EFFECT. Except to the extent amended hereby, the Prior Treatment Contract shall remain in full force and effect.

SECTION 4. SEVERABILITY. If for any reason whatever, any part of this Second Supplemental Wastewater Treatment Contract is determined to be invalid or unenforceable, the remainder of this Second Supplemental Wastewater Treatment Contract shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have placed their hands and seal as of the date first above written.

OPERATOR:

BAY COUNTY, FLORIDA, acting by and through its Board of County Commissioners

Attest:

Approved as to form and legality:

County Attorney

Attest:

Approved as to form and legality:

Chairman

Date Approved: June ____, 2014

CUSTOMER:

CITY OF PARKER, FLORIDA

Mayor

EXHIBIT A

	<u>Callaway</u>	<u>Parker</u>	<u>Springfield</u>	<u>Bay County</u>
Bonds	24.26%	14.30%	40.32%	21.12%
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