



## Department of Environmental Protection Office of Inspector General

June 9, 2022

Report A-2122DEP-006

# *Review of Clean Water State Revolving Construction Loan Agreement WW030711 and Grant Agreement SG030712 with the City of Parker*

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## **INTRODUCTION**

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The Office of Inspector General (OIG) conducted a review of the Department of Environmental Protection (Department), Division of Water Restoration Assistance (Division) combined Clean Water State Revolving Construction Loan Agreement WW030711 and Grant Agreement SG030712 (Agreement) with the City of Parker (City). This review was initiated as part of the Fiscal Year (FY) 2021-2022 Annual Audit Plan.

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## **BACKGROUND**

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The Clean Water State Revolving Fund (CWSRF) was created by the 1987 amendment to the Clean Water Act as a financial assistance program under 33 U.S. Code §1383. Under the CWSRF, the Environmental Protection Agency (EPA) provides grants to capitalize state CWSRF loan programs. States contribute an additional 20 percent as a match for the federal award. Through the CWSRF, the Department provides low-interest loans for planning, designing and construction of water pollution control facilities as established under Chapter 62-503, Florida Administrative Code (F.A.C.) The CWSRF is funded through General Revenue and the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund under Section 403.1835, Florida Statutes (F.S.)

The Small Community Sewer Construction Assistance Act established under Section 403.1838, F.S. and Chapter 62-505, F.A.C., authorizes funding to assist financially disadvantaged small communities with their needs for adequate sewer facilities. Section 403.1835, F.S., authorizes the use of grant funding for financially disadvantaged small communities from grant allocations on CWSRF loans. These grants are funded through the Federal Grants Trust Fund.

On November 6, 2017, the Department and the City entered a CWSRF Construction Loan and Grant combined Agreement for the construction of a wastewater pollution control facility. The final funding amount for Parker Wastewater Improvements (Project) was a loan amount of \$1,308,798 and a grant amount of \$916,159. The Agreement permits the grant amount of \$916,159 to be transferred as principal loan forgiveness upon satisfactory completion of the Project. Repayment of the remaining

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loan balance to the Department is in scheduled Semiannual installments with a start date of June 15, 2020.

The Agreement was amended four times for necessary funding revisions. The fourth Amendment executed December 16, 2020, finalized the funding amount under the Agreement as follows:

PROJECT COSTS				
Category	Original Funding	Amendment 3	Amendment 4	Final Amended Funding
Construction and Demolition	1,095,576.00	200,000.00	(91,102.00)	1,204,474.00
Technical Services After Bid Opening	104,678.00	0.00	(354.00)	104,324.00
Contingencies	54,779.00	0.00	(54,779.00)	0.00
Subtotal (Disbursable Amount)	1,255,033.00	200,000.00	(146,235)	1,308,798.00
Less Grant (SG030712) Funding	(878,523.00)	140,000.00	(102,364)	(916,159.00)
Capitalized Interest	500.00	5,200.00	8.59	5,708.59
Total Principle to Repay	377,010.00	94,301.00	(72,963.41)	398,347.59

Loan Disbursements to the City from the Wastewater Treatment and Stormwater Management Trust Fund were as follows:

	Date of Disbursement	Amount:
1	4/10/2018	\$597,138.00
2	4/30/2019	\$578,032.00
3	6/15/2020	\$79,863.00
4	6/15/2020	\$53,765.00
	Total Loan Disbursements	\$1,308,798.00

Upon final closeout of the Project, the Department transferred the grant funds in a lump-sum payment toward repayment of the loan.

Date	Transfer to	Transferred From	Amount:
8/25/2020	Federal Grants Trust Fund	Wastewater Treatment and Stormwater Management Trust Fund – Repayment of Loans	\$916,159.00

The first Semiannual Loan Payment in the amount of \$12,289.00 was due on June 15, 2020, as set in Amendment Three. According to Amendment Four, the loan payment amount was updated, and the repayment schedule is as follows, *the Semiannual Loan Payment amount, adjusted to account for repayments received to date, is hereby revised and shall be in the amount of \$11,083.28. Such payments shall be received by the Department on December 15, 2020 and semiannually thereafter on June 15 and December 15 of each year until all amounts due hereunder have been fully paid.* The following payments were made to the loan balance.

Repayment	Payment Type	Date of Repayment	Amount:
1	Semiannual Loan Payment	7/1/2020	\$12,289.00
2	Grant to Loan Forgiveness	8/25/2020	\$916,159.00
3	Semiannual Loan Payment	1/26/2021	\$11,083.28
4	Semiannual Loan Payment	6/17/2021	\$11,083.28
5	Semiannual Loan Payment	1/10/2022	\$11,083.28
		Total Repayments	\$961,697.84

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**RESULTS OF AUDIT**

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**Authoritative Compliance**

We reviewed the administration of the Agreement with the authoritative requirements. The following was noted during our review.

Compliance with Section 215.971, F.S.

We verified that the Agreement contained a scope of work for the Project which referenced the plans and specifications accepted by the Department under Article 1.01(21). As required under Section 215.971, F.S., the Agreement contained financial consequences under Article 6.

Articles 4.07 and 10.01 of the Agreement establish that grant funding under the Agreement shall be transferred as a one-time payment against the loan balance at the time of Project closeout. While this transfer is not specifically established as a deliverable under the Agreement, it is implied that the specific and measurable purpose for the grant funds is the required loan repayment. We verified that the Agreement Manager received the Certificate of Substantial Completion signed by the engineer, contractor, and City prior to transfer of grant funds. Also prior to transfer, an inspection of the Project and Project records was completed.

Compliance with Section 215.97, F.S.

Article 2.03 of the Agreement requires the City to comply with Section 215.97, F.S. *Florida Single Act*, and Chapter 10.650, F.A.C. *Rules of the Auditor*

*General* regarding submission of financial reporting packages. The City's Fiscal Year End (FYE) 2018 and 2019 audited Financial Statements were submitted to the Department as required. However, the City's 2020 audited Financial Statements were not submitted timely and contained several findings related to the financial statements and the City's internal control processes.

**Agreements Funded with Federal or State Assistance  
Section 215.971(1)(a-c), F.S.**

*(1) An agency agreement that provides state financial assistance to a recipient or subrecipient, as those terms are defined in s. 215.97, or that provides federal financial assistance to a subrecipient, as defined by applicable United States Office of Management and Budget circulars, must include all of the following:*

- (a) A provision specifying the scope of work that clearly establishes the tasks that the recipient or subrecipient is required to perform.*
- (b) A provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.*
- (c) A provision specifying the financial consequences that apply if the recipient or subrecipient fails to perform the minimum level of service required under the agreement. The provision can be excluded from the agreement only if financial consequences are prohibited by the federal agency awarding the grant. Funds refunded to a state agency from a recipient or subrecipient for failure to perform as required under the agreement may be expended only in direct support of the program from which the agreement originated.*

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Compliance with Section 403.1835, F.S. and Chapters 62-503 and 62-505, F.A.C.

Requirements for approval of financial assistance are outlined under Section 403.1835, F.S. We verified the City submitted the required financial information, planning documents, and forms. The required assurances were included in the Agreement, with the exception of the *assurance that a project audit prepared by an independent certified public accountant upon project completion will be submitted to the Department in support of a request for a grant*. The Program Administrator indicated that this was not requested due to the inclusion of the grant funding in the Agreement. Instead, the Division relied on the regular submission of the City's Audited Financial Statements.

Under Chapter 62-505.300(1)(d), F.A.C., the City was required to adopt and implement an Asset Management Plan (AMP) which complies with requirements under Chapter 62-503.700(7), F.A.C. We verified that the AMP was developed as required and that the City passed a resolution to adopt and implement the AMP. The Department approved the AMP on May 8, 2020. The final disbursement was processed on June 15, 2020.

Section 403.1838(2), F.S. lists the requirements to qualify for a Small Community Sewer Construction Assistance Act grant. We verified that the City qualified as a financially, small disadvantaged community.

**Agreement Compliance**

According to Article 2.01(11) of the Agreement, a certification regarding pledged revenues, the Loan Debt Service Account, and insurance was due annually. We verified that the initial certification was received on December 27, 2018. We verified the initial annual certification sent by the City contained the required statements.

**Water Pollution Control Financial Assistance  
Section 403.1835(6) F.S.**

- (6) *Prior to approval of financial assistance, the applicant shall:*
  - (a) *Submit evidence of credit worthiness, loan security, and a loan repayment schedule in support of a request for a loan.*
  - (b) *Submit plans and specifications and evidence of permissibility in support of a request for funding of construction or other activities requiring a permit from the department.*
  - (c) *Provide assurance that records will be kept using generally accepted accounting principles and that the department, the Auditor General, or their agents will have access to all records pertaining to the financial assistance provided.*
  - (d) *Provide assurance that the subject facilities, systems, or activities will be properly operated and maintained.*
  - (e) *Identify the revenues to be pledged and document their sufficiency for loan repayment and pledged revenue coverage in support of a request for a loan.*
  - (f) *Provide assurance that financial information will be provided as required by the department.*
  - (g) *Provide assurance that a project audit prepared by an independent certified public accountant upon project completion will be submitted to the department in support of a request for a grant.*
  - (h) *Submit project planning documentation demonstrating a cost comparison of alternative methods, environmental soundness, public participation, and financial feasibility for any proposed project or activity.*

**Small Community Sewer Construction Assistance Act  
Section 403.1838(2), F.S., states in part**

(2) *The department shall use funds specifically appropriated to award grants under the section to assist financially disadvantaged small communities with their needs to adequate sewer facilities. For purpose of this section, the term "financially disadvantaged small community" means a county, municipality, or special district that has a population of 10,000 or fewer, according to the latest decennial census, and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.*

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However, the Department has not received annual certifications since this time. Article 10.07 of the Agreement requires that the certification is due no later than September 30 of each year until the final Semiannual Loan Payment is made.

We verified that the Division staff conducted a final on-site inspection and an administrative close-out on February 27, 2020, which was prior to transfer of the grant amount to the loan balance.

In accordance with Article 3.01 of the Agreement, we verified that the City established a separate general ledger account as the Loan Debt Service Account, six months prior to the first repayment of the loan. However, the City has not made the required monthly loan deposits into the general ledger account. According to City management, the Semiannual loan payments are being made from an Operating Cash Account which earns interest; however, the interest is not being applied to the Semiannual loan payments as required by Article 3.02 and 3.03.

Article 5.01 of the Agreement requires that rates and charges for water services furnished by the Water System will equal or exceed 1.15 times the sum of the Semiannual payments due in a fiscal year. Article 7.01 of the Agreement allows for additional debt obligation to be issued provided that the City can satisfy the coverage requirements of both debt obligations equaling or exceeding 1.15 times the annual combined debt service requirement.

We verified that the City pledged additional revenues through entering Agreement DW030720 for a Drinking Water Planning and Design Loan with the Department. Agreement DW030720 also contains a pledge of 1.15 times the debt service. The rate coverage and pledged revenue to cover both debt obligations was as follows:

**Clean Water State Revolving Fund  
Construction Loan Agreement WW03711  
Grant Agreement SG03712**

*(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 non-ad valorem funds all sums becoming due before the same become delinquent. This requirement shall not be construed to give superiority to the Department's claim on any revenues over prior claims of general creditors of the 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.*

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Agreement	Annual Payments Due	Needed Rate Coverage
WW0307011 Loan	\$11,083.28 x 2 = \$22,166.56	22,166.56 x 1.15 = \$25,491.54
DW030720	\$4,637 x 2 = \$9,274	\$9,274 x 1.15 = \$10,665.10
	<b>TOTAL RATE COVERAGE NEEDED</b>	<b>\$36,156.64</b>
	Water Revenue from the FYE 2019 Audited Financial Statement	\$228,494.00

We reviewed billing statements provided by the City for September 2021 and verified that there was no free service being provided in accordance with Article 5.02 of the Agreement. We also verified that the City imposes shut off penalties if customer payments are not received.

Article 8.09 of the Agreement requires compliance with the Davis-Bacon Act for wage requirements. Based on a review of sampled timesheets, we verified payment of these wages was more than the prevailing Davis-Bacon rate. According to City staff, interviews were conducted regarding Davis-Bacon Act wages. As required under Article 9.03 of the Agreement, we verified the City obtained the required insurance for the Project.

Loan Disbursements

In accordance with Chapter 62-503.430(6)(a), F.A.C. and Article 4.08 of the Agreement, we verified the three disbursements that were released by the Department were paid to the City. The disbursement packages had the required elements as stated in the Agreement, including an Engineer’s certification that the work was performed satisfactorily.

Project Costs and Requirements

According to Article 10.06 of the Agreement, the final grant amount and percentage was to be based on actual Project costs. Amendment Four, Section 7, finalized the Project costs to \$1,308,798 with a grant percentage of 70%. According to 62-505.350(5)(c),

**Clean Water State Revolving Fund  
Construction Loan Agreement WW03711  
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*(5.02) No Free Service. The Local Government shall not permit connections to, or furnish any services afforded by, the Water System without making a charge therefore based on the Local Government's uniform schedule of rates, fees, and charges.*

*(5.04) No Competing Service. The Local Government shall not allow any person to provide any services which would compete with the Water System so as to adversely affect Gross Revenues.*

*(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 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 System 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 System rates, fees, and other charges.*

**Loan Applications and Agreements  
Chapter 62-503.430(6)(a), F.A.C., states in part**

*(a) Requests for disbursements for construction and engineering services costs shall be accompanied by itemized summaries of the materials, labor, or services to identify the nature of the work performed. The disbursement package shall also include a statement that the construction or other service for which payment or reimbursement is sought has been satisfactorily performed.*

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F.A.C., to qualify for the construction grant base percentage of 70%, the AMP should be adopted and implemented prior to the final disbursement to the City. We verified the three disbursement requests paid to the City totaled \$1,308,798, and the AMP was approved prior to the final disbursement to the City.

According to Article 10.07(2) of the Agreement, Project construction was to be completed on December 15, 2019. The Division documented substantial completion of the Project on September 16, 2019, and the final construction completion date was October 9, 2019, per the final inspection.

Loan Repayment Actions

According to Section 8(5) of the third amendment to the Agreement, the first semiannual loan payment was due on June 15, 2020. Subsequent payments were due semiannually on December 15 and June 15. We verified the repayments were made in the amounts specified. However, repayments were between two and 42 days late.

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**CONCLUSION**

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Based on our review, the Division has administered the Agreement generally in compliance with Sections 403.1835, 403.1838, 215.97, and 215.971, F.S. as well as Chapters 62-503, and 62-505, F.A.C. However, we noted weaknesses in the area of financial oversight.

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**FINDING AND RECOMMENDATION**

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**Finding 1: Financial Oversight**

According to Section 403.1835(6)(g), F.S., prior to providing approval for financial assistance, the City was required to *provide assurance that a project audit prepared by an independent certified public accountant upon project completion will be provided as required by the department*. The Program Administrator indicated that this was not requested due to the inclusion of the grant funding in the Agreement. Instead, the Division relied on the regular submission of the City's Audited Financial Statements.

Article 2.01(11), of the Agreement states that, *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; (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*. We verified that the initial certification was

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received on December 27, 2018. The annual certification is due no later than September 30 of each year until the final Semiannual Loan Payment is made. Based on our review, the City had not submitted any annual certifications since the initial certification. We verified the initial certification sent by the City contain the required information.

Article 2.03 of the Agreement requires the City to comply with Section 215.97, F.S. *Florida Single Act*, and Chapter 10.650, F.A.C. *Rules of the Auditor General* regarding submission of financial reporting packages. The City’s Fiscal Year End (FYE) 2018 and 2019 audited Financial Statements were submitted to the Department as required. However, the City’s 2020 audited financial statements were not submitted timely and contained several findings related to the financial statements and the City’s internal control processes over grants. These included:

- significant audit adjustments
- lack of segregation of duties
- financial statement and schedule of expenditures and federal awards preparation
- bank reconciliations
- month-end closing process
- lack of documented review of required quarterly reports
- lack of documented review of reimbursement requests

Article 3.01 of the Agreement requires, “*Beginning six months prior to each Semiannual Loan Payment, the Local Government shall make six Monthly Loan Deposits.*” Based on our review, the City created a Loan Debt Service Account; however, the City has not made monthly loan deposits since the initial deposit.

Section 6 of the third amendment to the Agreement required that the semiannual loan payment was due on June 15, 2020 and semiannually thereafter on December 15 and June 15 of each year until all amounts due have been fully paid. Four Semiannual payments have been submitted by the City as follows. The repayment schedule is Semiannual, and we verified repayments as follows:

Payment Due	Amount Paid	Payment Received	Number of Days Overdue
June 15, 2020	\$12,289.00	July 1, 2020	16
December 15, 2020	\$11,083.28	January 26, 2021	42
June 15, 2021	\$11,083.28	June 17, 2021	2
December 15, 2021	\$11,083.28	January 10, 2022	26

Based on our review, the Division sends a reminder of payment due approximately 15 days before a payment is expected. If the payment is late the Division sends a reminder 10-15 days after the payment due date. Per discussions with Division management,



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interest or late penalties were not applied because the Division's current database does not have the capability to assess these charges.

Due to these collective circumstances, the City's financial activities and lack of assurances present a risk to the reliability of Agreement compliance and loan repayment.

**Recommendation:**

Based on the risk indications from the City's financial circumstances, we recommend the Division increase its monitoring of the City's financial activities. The City's lack of fiscal due diligence presents a future risk to repayment of the loan.

Going forward, we also recommend that the Division require applicants to provide assurance that a Project specific audit will be conducted upon Project completion in accordance with Section 403.1838(6)(g), F.S., regardless of whether the provision for grant funding is included in the loan Agreement.

**Division Response:**

The Division agrees with the recommendations and intends to perform quarterly visits to the City in FY23 that will include financial discussions to determine if budgeting is sufficient for maintenance of the system and that the loan debt service account is being funded. The Division will also review annual audited financial statements and address any deficiencies with the City.

We have also updated language in agreements that include grant funding, regardless of whether the provision for a loan is included, to require a Project specific audit be submitted within 12 months after the final Project costs have been determined. This language will be included in agreements written after June 1, 2022.

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**APPENDIX A - SCOPE, OBJECTIVES, AND METHODOLOGY**

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The scope of this review included requirements, activities, and disbursements associated with the Agreement between the Department and the City.

The objectives of this review were to:

- Determine whether the Division has administered the Agreement in compliance with applicable statutes and rule;
- Evaluate Division oversight of the City's compliance with the Agreement;
- Determine whether approved loan and grant disbursements were made in accordance with the Agreement; and
- Determine if loan repayment activities are in accordance with the Agreement Repayment Schedule.

This review was conducted under the authority of Section 20.055, F.S. and in accordance with the Institute of Internal Auditors' *International standards for the Professional Practice of Internal Auditing*. Our procedures included review of authoritative sources, review of Agreement related documentation, and interviews with Division and City staff.

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**STATEMENT OF ACCORDANCE**

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**Statement of Accordance**

The Mission of the OIG is to promote accountability, integrity, and efficiency by providing quality audits, investigations, management reviews, and technical assistance.

This audit was conducted pursuant to Section 20.055, Florida Statutes, in accordance with the *Principles and Standards for Offices of Inspectors General* as published by the Association of Inspectors General and the *International Standards for the Professional Practice of Internal Auditing*, as published by the Institute of Internal Auditors, Inc. The audit was conducted by Lucinda Coverston and supervised by Valerie J. Peacock.

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