



## COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. The first meeting of every month is at 9:30AM while the second meeting of every month takes place at 5:30PM. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 2/3/2023 Meeting Date: 3/2/2023

Name: David Kraus Department: BCC Administration

Approved By:

A handwritten signature in blue ink, appearing to be "DK", is written over a light blue horizontal line.

### 1. Nature and purpose of agenda item:

DEO Revolving Loan for NFMIP Wastewater Treatment Plant for \$8,000,000

### 2. Recommended Motion/Action:

Motion to Approve the Term Sheet for the Wastewater Treatment Plant

### 3. Fiscal impact on current budget.

This item has no effect on the current budget.

## TERM SHEET

This loan facility ("Facility") is made as of the Effective Date between the Florida Department of Economic Opportunity ("DEO"), located at 107 East Madison Street, Tallahassee Florida, 32399, and Columbia County ("Borrower") 135 NE Hernando Avenue, Suite 203 Lake City, FL 32056-1529. DEO and the Borrower are collectively referred to as the "Parties" and each individually as a "Party."

**Background.** This Term Sheet sets out the terms and conditions pursuant to which DEO has agreed to provide the Facility of up to \$8 million to the Borrower for costs and expenditures associated solely with the project set forth in that certain Florida Job Growth Infrastructure Grant Agreement (Agreement Number G0045) effective as of February 18, 2019, and as amended from time to time (the "Project").

**Status of this Term Sheet.** As of the Effective Date the Parties acknowledge that they have created legally binding obligations in accordance with the terms set forth below; provided, however, that DEO's obligation to pay is subject to annual appropriation by the Legislature and availability of funds.

**Termination.** Either Party may, prior to DEO's approval of the Borrower's first draw from the loan Facility, terminate this Term Sheet, effective three business days after written notice has been delivered via certified mail, return receipt requested, to the address set forth for the non-terminating Party above.

**Full Documents.** This Term Sheet is intended to create a legal obligation between the Parties, subject only to the terms set forth herein and the execution of definitive documents embodying all of the terms and conditions between the Parties with respect to the Facility (together with this Term Sheet, the "Loan Documents").

### Terms.

Working Capital Facility	
Nature and Purpose of the Facility	DEO has agreed to provide the Borrower with an interest bearing loan facility (Facility) for the purpose of providing the Borrower with funding.
Use of Funds	The use of funds will be limited to the Borrower's ordinary course of business expenditures associated with the Project and approved in writing by DEO in DEO's reasonable discretion.
Amount of Facility	\$8,000,000
Annual Fee	To maintain availability of the Facility, the Borrower must pay an annual fee of \$500, due and payable upon execution of this Term Sheet, then annually at the anniversary of the Effective Date of the Loan Documents.
Interest Rate	Upon completion of a drawdown, the amount drawn will become the Outstanding Principal.  Simple interest will accrue on an annualized basis on the Outstanding Principal at a rate of 2.5% (the "Interest Rate"); provided, however, that if the rate earned by the Special Purpose Investment Account within the Florida Treasury Investment Pool exceeds the Interest Rate by more than one percentage point, then the Interest Rate will increase to 3.5%.

	<p>For avoidance of doubt, the Borrower will not be obligated to pay interest on any amounts that are not Outstanding Principal. This Term Sheet does not contemplate the accrual or payment of any compound interest. Interest earned on amounts in the Facility that are not Outstanding Principal will be paid into the Rural Community Development Revolving Loan Fund.</p>
<p><b>Preconditions to Availability of Facility</b></p>	<p>DEO is not obliged to provide the Facility to the Borrower until DEO:</p> <ul style="list-style-type: none"> <li>• has received a certified copy of a resolution of the Columbia County Board of Directors of the Borrower: <ul style="list-style-type: none"> <li>○ confirming the Borrower's solvency;</li> <li>○ certifying that as at the date of that resolution, no fact or circumstance has occurred, or in the reasonable opinion of the Borrower's board, is likely to occur on or before the date of the first drawdown which has or would have a material adverse effect on the ability of the Borrower to comply with its payment obligations in terms of the Facility;</li> <li>○ approving the terms and conditions of this Term Sheet; and</li> <li>○ designating an authorized representative to execute this Term Sheet on behalf of the Borrower.</li> </ul> </li> <li>• has countersigned and returned to the Borrower the Loan Documents.</li> </ul>
<p><b>Availability of Facility</b></p>	<p>The Facility is available for drawdown beginning immediately after the execution of all Loan Documents.</p> <p>The Borrower may make drawdown requests and receive disbursements from the Facility for a period of 36 months after all Loan Documents have been executed. Thereafter, no further draws may be made, even if the total Amount of the Facility has not been drawn down, and the Borrower has 60 months to repay all Outstanding Principal under the Facility (the "repayment Period"), plus any interest that has accrued.</p> <p>An amortization schedule will be provided with the Loan Documents detailing repayments if Outstanding Principal is carried forward into the Repayment Period.</p>
<p><b>Drawdown Procedure</b></p>	<p>Drawdowns are conditional on DEO's approval which can be withheld in DEO's reasonable discretion, which discretion shall be confined to assessing whether the amount provided under the Facility will be used in accordance with the authorized use of the funds set out above and assessing and confirming that the Borrower is not in breach of any of the terms of the Loan Documents.</p> <p>All amounts will be provided in tranches of \$1 million, except the last tranche which must represent the balance of the Facility.</p> <p>Prior to drawing down on the Facility, the Borrower must provide DEO with a written drawdown request:</p> <ul style="list-style-type: none"> <li>• specifying the amount required and the use of those funds;</li> <li>• confirming that the Borrower is not in breach of any of the terms of the Loan Documents; and</li> </ul>

	<ul style="list-style-type: none"> <li>signed by a duly authorized signatory.</li> </ul> <p>The Borrower must provide any other information which DEO requires in respect of the proposed drawdown (including, without limitation budgets, quotes, estimates, invoices etc., relating to the amount and intended use of those funds) to verify that the purpose of the drawdown is within the approved use of funds for moneys drawn down under the Facility.</p>
<b>Repayment Term</b>	<p>Amounts outstanding under the Facility may be repaid at any time without any penalty.</p> <p>Repaid amounts may not be used for additional credit. Pursuant to section 288.065(2)(c), Florida Statutes, all repayments of principal and interest shall be returned to the Rural Community Development Revolving Loan Fund and made available for loans to other applicants under the Rural Community Development Revolving Loan Fund Program.</p> <p>Within 60 days after a drawdown the Borrower shall begin repayments of interest only.</p> <p>Within 12 months after a drawdown the Borrower shall begin repayments of principal and interest. Amounts unpaid shall rollover each month and interest shall be accrued on the unpaid Outstanding Principal.</p> <p>Any amount outstanding under the Facility becomes immediately repayable in full on the earlier of:</p> <ul style="list-style-type: none"> <li>the termination of the Loan Documents (other than termination resulting from the conclusion of a formal agreement), or if a formal agreement was entered into incorporating the provisions of the Loan Documents, the formal agreement;</li> <li>the Borrower decides not to proceed with the Project;</li> <li>96 months from the date of entering into this Term Sheet;</li> <li>the occurrence of an Event of Default (which is not remedied within the time period required to remedy such a default after notice to that effect from DEO).</li> </ul>
<b>Event of Default</b>	<p>The Borrower will be given five business days to remedy an event of default for failure to pay an amount owing to DEO and 10 business days to remedy any other default (other than insolvency type defaults).</p> <p>An event of default will occur where:</p> <ul style="list-style-type: none"> <li>the Borrower fails to pay any amounts owing under the Facility as and when due;</li> <li>the Borrower fails to perform or observe any obligation under the Facility and does not remedy the failure within five business days after receipt of a notice;</li> <li>any warranty, representation, or statement by the Borrower is or becomes false, misleading, or incorrect when made or regarded as made under this Term Sheet or the Loan Documents; and</li> <li>there is a material adverse change in the Borrower's assets, liabilities, financial position, or prospects.</li> </ul>



<b>Representations and Warranties</b>	<p>It is acknowledged that DEO may require additional warranties to be provided by the Borrower.</p> <p>The Borrower represents and warrants (on signing this Term Sheet, upon execution of the Loan Documents, and again on each drawdown and on each day that there remain amounts outstanding under the Facility) that:</p> <ul style="list-style-type: none"> <li>• it has consulted, and as appropriate obtained the review and opinions of, its legal counsel and accountants.</li> <li>• it has full power and authority to enter into and perform its obligations under this Term Sheet and has taken all necessary action to authorize the execution, delivery, and performance thereof;</li> <li>• this Term Sheet constitute legal, valid, and binding obligations on the Borrower;</li> <li>• entry into the Term Sheet does not result in the Borrower contravening any law or the Florida Constitution;</li> <li>• entry into the Term Sheet does not place the Borrower in breach of a term of any other agreement;</li> <li>• no event has occurred which constitutes an Event of Default;</li> <li>• it is solvent and able to pay its debts as and when they become due and payable;</li> <li>• all information furnished by the Borrower to the Lender in connection with this Term Sheet is true and correct in all respects and there are no other facts or circumstances of which it is aware that would render any such information misleading;</li> <li>• it has not violated any law or agreements which may have a material adverse effect on the business or financial condition of the Borrower or any member of the Borrower's Group; and</li> <li>• it has disclosed to the Lender any information which might reasonably be expected to adversely influence the decision of a lender to make a general corporate borrowings facility available to the Borrower on terms and conditions similar to those contained in this Term Sheet.</li> <li>• it will, in good faith, take all steps necessary to facilitate the execution of this Term Sheet, the subsequent Loan Documents, and the transactions contemplated hereby and thereby.</li> </ul>
<b>Indemnity</b>	<p>The Borrower will indemnify DEO for all loss that it suffers occurring as a result of an Event of Default or DEO exercising its powers as a result of an Event of Default.</p>
<b>Costs and Expenses</b>	<p>Except as otherwise set forth herein, each Party bears its own costs and fees, including attorney's fees.</p>
<b>Confidentiality</b>	<p>This Term Sheet is a public record, subject to the public record disclosure requirements of Article I, Section 24 of the Florida Constitution and Chapter 119 of the Florida Statutes.</p>

<b>Formal Documents</b>	DEO will brief its attorney to prepare the Loan Documents incorporating the provisions set out above and other terms customarily found in a loan facility of this type.
<b>Governing Law</b>	This Term Sheet and the transaction contemplated hereby is governed by and construed in accordance with the laws of the State of Florida, and the Parties expressly consent to the exclusive personal jurisdiction and venue in any state court located in Leon County, Florida, and waive any defense of forum non conveniens, lack of personal jurisdiction, or like defense, and further agree that any and all disputes between them shall be solely in the State of Florida.
<b>Counterparts</b>	This Term Sheet may be signed in counterparts which together will constitute one instrument. A party may execute this Term Sheet by signing any counterpart. A party may execute this Term Sheet or any counterpart by facsimile.
<b>Binding Nature of this Term Sheet</b>	This Term Sheet is intended to be a binding legal agreement between the Parties.

**Effective Date and Execution.**

Effective as of the date executed by DEO.

Columbia County	Florida Department of Economic Opportunity
By:	By:
Title:	Title:
Signature	Signature
Date:	Date: