

Georgia Environmental Finance Authority

Brian P. Kemp
Governor

Hunter Hill
Executive Director



February 15, 2023

Mr. Bob Atkins
Treasurer
DeKalb County
1300 Commerce Drive
3rd Floor, Treasury
Decatur, GA 30030

RE: Modification for Loan No. DW2020036

Dear Ms. Marshall:

Enclosed are the modification documents for the Drinking Water State Revolving Fund loan agreement between the Georgia Environmental Finance Authority (GEFA) and DeKalb County. GEFA is pleased to provide you with the following materials:

1. Three copies of the Modification of Promissory Note and Loan Agreement, including:
 - a. Exhibit A – Description of Project (Scope of Work, Budget, and Schedule)
 - b. Exhibit E – Opinion of Borrower's Counsel
 - c. Exhibit F – Resolution of Governing Body

In order to execute this modification in a timely manner, please read the following instructions:

MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

Three copies of the modification are enclosed. Each copy is an original counterpart and each must be executed. Please do not date page one of these copies of the modification. This date will be completed by GEFA at the time of execution of this modification. Please have the appropriate official sign each copy and the appropriate person attest the signature. Once signed, return all three copies of the modification with any other documents for our review and execution. GEFA will send your counterpart to you after execution.

EXHIBIT E – OPINION OF BORROWER'S COUNSEL

Exhibit E is a letter that must be prepared by your local government's attorney. This letter ensures that the modification documents and other documents have been properly reviewed and approved by the borrower's counsel. On page 3 of the modification, the borrower's counsel must also sign where indicated that modification is "Approved as to form."

EXHIBIT F – RESOLUTION OF GOVERNING BODY

This resolution gives authorization to the chief elected official to execute the modification documents, and any and all other documents. This resolution must be submitted along with the signed modification documents. The same elected official authorized to sign the modification documents within the resolution must also sign the modification documents.



GEFA is glad to assist you with the modification of this loan agreement and promissory note. Please do not hesitate to let us know if we can answer any questions or be of assistance in any other way.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeneerah Byron', written over the printed name.

Jeneerah Byron
Project Manager

Enclosures

cc: Greg A. Harrison, AECOM (w/o enclosures)



Recipient Execution Checklist

Borrower Name: DeKalb County

Loan Number: DW2020036

For your convenience, this checklist will help you complete all pertinent documents that must be returned to GEFA for execution. Please **initial** each item below to verify the items are completed. Please return this initialed checklist with your executed loan documents.

____ (3) Modification of Promissory Note and Loan Agreement

☐ Signed, dated, and marked with the borrower's seal

____ Exhibit E: Opinion of Borrower's Counsel

☐ Signed, dated, and on the attorney's letterhead

____ Exhibit F: Resolution of Governing Body

☐ Signed, dated, and marked with the borrower's seal. **This resolution authorizes the signer and attestor. The same people must sign all the documents.**



**DRINKING WATER STATE REVOLVING FUND, ADMINISTERED BY GEORGIA
ENVIRONMENTAL FINANCE AUTHORITY**

(a public corporation duly created and
existing under the laws of
the State of Georgia)
as Lender

and

DEKALB COUNTY

(a public body corporate and politic duly created and existing
under the laws of the State of Georgia)
as Borrower

MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

THIS MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT (this "Modification") dated _____, by and between DEKALB COUNTY, Georgia, a corporate and politic (the "Borrower"), and the DRINKING WATER FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FUND, a Georgia public corporation (the "Lender").

**DO NOT
DATE THIS
PAGE**

LOAN AGREEMENT (this "Modification") dated _____, by and between DEKALB COUNTY, Georgia, a corporate and politic (the "Borrower"), and the DRINKING WATER FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FUND, a Georgia public corporation (the "Lender").

Statement of Facts

A. The Lender and the Borrower are parties to that certain Loan Agreement, dated **DECEMBER 9, 2020**, as amended prior to the date hereof (as so amended, the "Loan Agreement"; all capitalized terms used in this Modification but not defined herein have the meanings given in the Loan Agreement), pursuant to which the Lender made a loan to the Borrower in accordance with the terms and conditions thereof. The Borrower's obligation to repay such loan is evidenced by that certain Promissory Note, dated **OCTOBER 26, 2020**, as amended prior to the date hereof (as so amended, the "Note").

B. The Lender and the Borrower desire to modify the Loan Agreement and Note in certain respects in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Lender and the Borrower further agree as follows:

Statement of Terms

1. Amendments of Note - Subject to the fulfillment of the conditions precedent to the effectiveness of this Modification that are set forth below, the Note is hereby amended as follows:

Accrued interest on this Note shall be payable monthly on the first day of each calendar month until the first day of the calendar month following the earlier of (1) the Completion Date (as defined in the hereinafter defined Loan Agreement), (2) **SEPTEMBER 1, 2023**, or (3) the date that the loan evidenced by this Note is fully disbursed (the "**Amortization Commencement Date**"). Principal of and interest on this Note shall be payable in **THREE HUNDRED FIFTY-NINE (359)** consecutive monthly installments equal to the Installment Amount (as hereinafter defined), commencing on the first day of the calendar month following the Amortization Commencement Date, and continuing to be due on the first day of each succeeding calendar month thereafter, together with a final installment equal to the entire remaining unpaid principal balance of and all accrued interest on this Note, which shall be due and payable on the date that is **30 years** from the Amortization Commencement Date (the "**Maturity Date**").

2. Amendments of Loan Agreement - Subject to the fulfillment of the conditions precedent to the effectiveness of this Modification that are set forth below, the Loan Agreement is hereby amended as follows:

Section 2 (a) of the Loan Agreement is hereby amended and restated to read as follows: "The Lender agrees to advance to the Borrower, on or prior to the earlier of (1) the Completion Date (as hereinafter defined), (2) **SEPTEMBER 1, 2023**, or (3) the date that the loan evidenced by this Note is fully disbursed, the Loan in a principal amount of up to **\$25,000,000** which Loan may be disbursed in one or more advances but each such disbursement shall reduce the Lender's loan commitment hereunder and any sums advanced hereunder may not be repaid and then re-borrowed."

Exhibit A is amended and restated to read as written in the attached Exhibit A.

3. No Other Waivers or Amendments - Except for the amendments expressly set forth and referred to in Section 1 and 2 above, the Note and the Loan Agreement shall remain unchanged and in full force and effect. Nothing in this Modification is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of the obligations created by the Note.

4. Representations and Warranties - To induce the Lender to enter into this Modification, the Borrower does hereby warrant, represent, and covenant to the Lender that: (a) each representation or warranty of the Borrower set forth in the Loan Agreement is hereby restated and reaffirmed as true and correct on and as of the date hereof as if such representation or warranty were made on and as of the date hereof (except to the extent that any such representation or warranty expressly relates to a prior specific date or period), and no Event of Default has occurred and is continuing as of this date under the Loan Agreement; and (b) the Borrower has the power and is duly authorized to enter into, deliver, and perform this Modification, and this Modification is the legal, valid, and binding obligation of the Borrower enforceable against it in accordance with its terms.

5. Conditions Precedent to Effectiveness of this Modification - The effectiveness of this Modification is subject to the truth and accuracy in all material respects of the representations and warranties of the Borrower contained in Section 4 above and to the fulfillment of the following additional conditions precedent:

a. the Lender shall have received one or more counterparts of this Modification duly executed and delivered by the Borrower; and

b. the Lender shall have received (1) a signed opinion of counsel to the Borrower, substantially in the form of Exhibit E attached hereto, and (2) a certified copy of the resolution adopted by the Borrower's governing body, substantially in the form of Exhibit F attached hereto.

6. Counterparts - This Modification may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed and delivered as of the date specified at the beginning hereof



DEKALB COUNTY

Approved as to form:

By: _____
Borrower's Attorney

Signature: _____

Print Name: _____

Title: _____

(SEAL)



Attest Signature: _____

Print Name: _____

Title: _____

**DRINKING WATER STATE REVOLVING FUND,
ADMINISTERED BY GEORGIA
ENVIRONMENTAL FINANCE AUTHORITY**

Signature: _____

Hunter Hill
Executive Director

(SEAL)

DESCRIPTION OF THE PROJECT

SCOPE OF WORK

Recipient: DEKALB COUNTY

Loan Number: DW2020026

This project will replace water main and related appurtenances.

DESCRIPTION OF THE PROJECT

PROJECT BUDGET

Recipient: DEKALB COUNTY

Loan Number: DW2020026

ITEM	TOTAL	DWSRF	WIFIA	Local Funds
Construction	\$45,731,212	\$23,772,459	\$15,593,897	\$6,364,856
Contingency	871,295	871,295	-	-
Engineering & Inspection	1,824,923	356,247	735,000	733,676
Administrative/Legal	-	-	-	-
TOTAL	\$48,427,430	\$25,000,000	\$16,328,897	\$7,098,532

*The amounts shown above in each budget item are estimates. Borrower may adjust the amounts within the various budget items without prior Lender approval provided Borrower does not exceed the loan amount contained in Section 1 of the Loan Agreement. In no event shall Lender be liable for any amount exceeding the loan amount contained in Section 1 of the Loan Agreement.

DESCRIPTION OF THE PROJECT

PROJECT SCHEDULE

Recipient: DEKALB COUNTY

Loan Number: DW2020026

ACTION	DATE
Plans & Specs Submitted to EPD	AUGUST 2021
Bid Opening	NOVEMBER 2021
Notice to Proceed	JANUARY 2022
Completion of Construction	MAY 2023

OPINION OF BORROWER'S COUNSEL
(Please furnish this form on Attorneys Letterhead)

Date

Drinking Water State Revolving Fund, Administered by
Georgia Environmental Finance Authority
47 Trinity Ave SW
Fifth Floor
Atlanta, GA 30334-9006

Ladies and Gentlemen:

A legal opinion from **SUMNER MEEKER, LLC** was delivered to you, dated **OCTOBER 26, 2020** (the "Closing Opinion"), relating to the Loan Agreement (the "Loan Agreement"), dated **DECEMBER 9, 2020** between **DEKALB COUNTY** (the "Borrower") and the **DRINKING WATER STATE REVOLVING FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender"), and the Promissory Note (the "Note"), dated **OCTOBER 26, 2020**, of the Borrower. As counsel for the Borrower, I have examined the original of the Modification of Promissory Note and Loan Agreement (the "Modification"), between the Borrower and the Lender, the proceedings taken by the Borrower to authorize the Modification, the Closing Opinion, and such other documents, records, and proceedings as I have deemed relevant or material to render this opinion. Based upon such examination, I hereby reconfirm as of the date hereof the opinions contained in the Closing Opinion, subject to the modification that all references to the Note and the Loan Agreement (as defined in the Closing Opinion) shall be deemed to include a reference to the Modification. Nothing has come to my attention, after due investigation, that in any way might question the continuing validity and accuracy of the Closing Opinion, as modified above.

Very truly yours,

Signature

Printed Name

Date

**EXTRACT OF MINUTES
RESOLUTION OF GOVERNING BODY**

Recipient: **DEKALB COUNTY**

Loan Number: **DW2020026**

At a duly called meeting of the governing body of the Borrower identified above (the "Borrower") held on the ____ day of _____, _____, the following resolution was introduced and adopted.

WHEREAS, the Borrower has borrowed **\$25,000,000** from the **GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender"), pursuant to the terms of the Loan Agreement (the "Loan Agreement"), dated **DECEMBER 9, 2020**, between the Borrower and the Lender; and

WHEREAS, the Borrower's obligation to repay the loan made pursuant to the Loan Agreement is evidenced by a Promissory Note (the "Note"), dated **OCTOBER 26, 2020**, of the Borrower; and

WHEREAS, the Borrower and the Lender have determined to amend and modify the Loan Agreement, pursuant to the terms of a Modification of Promissory Note and Loan Agreement (the "Modification") between the Borrower and the Lender, the form of which has been presented to this meeting;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borrower that the form, terms, and conditions and the execution, delivery, and performance of the Modification are hereby approved and authorized.

BE IT FURTHER RESOLVED by the governing body of the Borrower that the terms of the Modification are in the best interests of the Borrower, and the governing body of the Borrower designates and authorizes the following persons to execute and deliver, and to attest, respectively, the Modification, and any related documents necessary to the consummation of the transactions contemplated by the Modification.

(Signature of Person to Execute Documents) (Print Title)

(Signature of Person to Attest Documents) (Print Title)

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect.

Date: _____

Secretary/Clerk

(SEAL)