



June 5, 2015

VIA E-FILING

Carlotta S. Stauffer, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

RE: Docket No. 110200-WU; In re: Application for increase in water rates in Franklin County by
Water Management Services, Inc./ Request for Escrow Withdrawal
Our File No. 46023.01

Dear Ms. Stauffer:

Pursuant to paragraph 17 of the Intercreditor Agreement entered into among Ameris Bank, the Florida Department of Environmental Protection ("DEP") and Water Management Services, Inc. ("WMSI"), WMSI is required to deposit 38% of its revenue monthly into an escrow account established by Ameris Bank and WMSI. Subsection c of the same paragraph 17 requires Ameris Bank to transfer the amount of \$28,568.06 each month from the Ameris Bank/WMSI escrow account to a separate escrow account which has been established at Ameris Bank for the DEP payment. For your convenience a copy of the relevant portion of the Intercreditor Agreement is enclosed (a copy of the entire Intercreditor Agreement has previously been provided to the Commission Staff). DEP is insistent that this money be transferred each month so that \$171,408.35 will be set aside to make the semi-annual payments in May and November of each year. After the Intercreditor Agreement was signed, all the parties decided to leave the PSC escrow in place until after the true-up, and the escrow account was transferred from Citizens Bank to Ameris Bank. WMSI has continued to deposit 28% of revenue each month into the PSC escrow, and WMSI has also agreed to deposit an additional 10% of revenue into a third escrow account which has been established at Ameris Bank for the purpose of maintaining a total of 38% of revenue in escrow as required by the Loan Agreement.

Accordingly, WMSI requests the Commission authorize the transfer of \$28,568.06 from the PSC escrow at Ameris Bank to the DEP escrow account at Ameris Bank to comply with the Intercreditor Agreement and to satisfy DEP's request that the money be transferred each month, starting with the deposit which needs to be transferred on or before June 15, 2015. There are sufficient funds in the escrow account to make this transfer. WMSI also requests that this authorization be a continuing one, authorizing the transfer of the same amount each month until further instructions by the Commission. This will eliminate the time and expense to you, WMSI and Commission Staff in having to file a request each month.

Carlotta S. Stauffer, Commission Clerk

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Should you or Staff have any questions concerning this filing, please do not hesitate to give me a call.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Martin S. Friedman", with a long horizontal flourish extending to the right.

MARTIN S. FRIEDMAN
For the Firm

MSF/

cc: Gene Brown (via e-mail)
Sandy Chase (via e-mail)
Martha Barrera, Esquire (via e-mail)
Erik Sayler, Esquire (via e-mail)
Andrew Maurey (via e-mail)

If to DEP

If to Borrower:

12. Contesting Liens or Security Interests. Neither Lender nor Borrower shall contest the validity, perfection, priority, or enforceability of any lien or security interest granted to the other Lender and each Lender, without expense to the other, agrees to cooperate in the defense of any action contesting the validity, perfection, priority, or enforceability of these liens or security interests.

13. Marshaling of Assets. Each Lender waives any and all rights to have all or any part of the First Lien Collateral of the other marshaled upon any foreclosure by the holder of the First Lien Collateral, except as may be required by law or herein.

14. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the respective successors and assigns of each of the parties, but does not otherwise create and shall not be construed as creating any rights enforceable by any person not a party to this Agreement.

15. Governing Law and Venue. The validity, interpretation, enforcement, and effect of this Agreement shall be governed by the internal laws and not the conflict of laws rules of the State of Florida. Any action to enforce, and any suit regarding or relating to this Agreement, shall be commenced and prosecuted in a court of competent jurisdiction in Franklin County, Florida. Each party hereto waives its right to proceed in any other forum with concurrent jurisdiction and agrees to the transfer of any action commenced elsewhere to such Florida Court, under the doctrine of *forum non conveniens*.

16. Loan Administration and Funding. The Project will be performed and funded pursuant to a Construction Loan Agreement between Ameris and Borrower. Subsequently, the Ameris and DEP Loans shall be administered pursuant to the respective Loan Agreements, and this Agreement.

17. Escrow Accounts. Pursuant to the Ameris Loan Documents, Borrower is required to establish an escrow account in which 38% of the gross revenue of the Borrower is to be deposited (the "Escrowed Funds").

a. Ameris is authorized to fund payments required under the Ameris Loan Documents and to pay the semi-annual payments on the DEP loan from the Escrowed Funds. The escrow account, receiving the 38% of Borrower's revenue, shall be known as

the Ameris/WMSI escrow account, and will be controlled by Ameris, which shall have a First Lien Collateral interest therein. DEP shall have a second priority lien and security interest in the Ameris/WMSI account only to the extent to secure the DEP/WMSI escrow account described in section 17.b. below.

b. DEP and the Borrower shall also establish an escrow account (which shall be subject to a separate escrow agreement) at Ameris Bank for the purposes of holding funds and making the semi-annual payments on the DEP loan. That account shall be known as the DEP/WMSI escrow account, and will be controlled by DEP, which shall have a First Lien Collateral Interest therein. Transfer from that account shall only be made for the semi-annual payments on the DEP loan upon DEP's notice of installment amount due and payable. Ameris shall have no trust or fiduciary relationship with DEP pursuant to the escrow arrangements described in this Agreement.

c. On or before the 15th of each month, beginning the month that the Ameris Loan is in place, Ameris shall transfer the sum of \$28,568.06 from the Ameris/WMSI escrow account to DEP/WMSI escrow account. At the closing of the Ameris Loan, an initial amount will be transferred to the DEP/WMSI escrow account that is adequate to make the next semi-annual payment to DEP of \$171,408.35, when coupled with the monthly transfers of \$28,568.06 each between the closing on the Ameris Loan and the next semi-annual payment to DEP.

d. The DEP/WMSI escrow account shall continue until the DEP Loan is paid in full. The Ameris/WMSI escrow account shall continue until the Ameris Loans are paid in full.

e. If 38% of the Borrower's revenue becomes inadequate to pay the debt service on both the Ameris Loan and the DEP Loan, the percentage to be escrowed may be increased unilaterally by Ameris to an amount that will cover the debt service on both loans; if such increase incurs, Ameris shall fund the DEP/WMSI to the extent available funds are collected. If an arrearage, occurs Borrower shall provide to Ameris and DEP, a plan and schedule by which it commits to bring any arrearage current, if the plan is acceptable to Ameris and DEP (neither DEP nor Ameris have to accept such plan nor delay in declaring a default), then neither shall declare a default upon such arrearage plan being accepted, and as long as Borrower meets its obligations under such plan, without delay or deviation. Upon completely funding any such arrearage plan, then the total amount of escrow funds shall return to 38% of revenue; provided it is reasonable to expect Borrower to have sufficient revenue to meet its future commitment to the Escrow and all its other creditors. Borrower shall have the ability to twice present an arrearage plan and perform, and have the escrow amount reduced back to 38%; thereafter, Ameris does not have to provide Borrower such option to cure and can keep the Escrow percentage higher than 38%. Nothing herein shall reduce or prevent either Lender from declaring a default for any other reason, or if they declare a default based on feeling insecure. By signing this Agreement, the Borrower hereby consents in advance to any such increase,