

**Audit of Agreement LPS0019 with
the City of Fanning Springs**

Division of Water Restoration Assistance

Report: A-2021DEP-011

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

July 7, 2021

3900 Commonwealth Boulevard, MS 40
Tallahassee, Florida 32399-3000

<https://floridadep.gov/>





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Division of Water Restoration Assistance



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The Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Agreement LPS0019 (Agreement) with the City of Fanning Springs (City). This audit was initiated as a result of the Fiscal Year (FY) 2020-2021 Annual Audit Plan.

Scope and Objectives

The scope of the audit included activities, records, and disbursements associated with the Agreement as well as agreements and activities related to the Fanning Springs Wastewater Collection Project (Project). The objectives were to:

- determine whether payments were made for activities and required deliverables in accordance with the Agreement.
- evaluate management oversight and controls over the City's compliance with the Agreement.

Methodology

This audit was conducted under the authority of Section 20.055, Florida Statutes (F.S.), and in accordance with the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing*. Our procedures included review of statutory and Agreement requirements, Agreement financial records, documentation of activities, and correspondence with Division of Water Restoration Assistance (Division), City staff, and the City's contractor.

Background

As part of the Springs Restoration funding included in the 2019-2020 General Appropriations Act line item 1657, the Division executed the Agreement on January 24, 2020, with the City for Phase VI of the Project. This Project is part of a multi-year springs

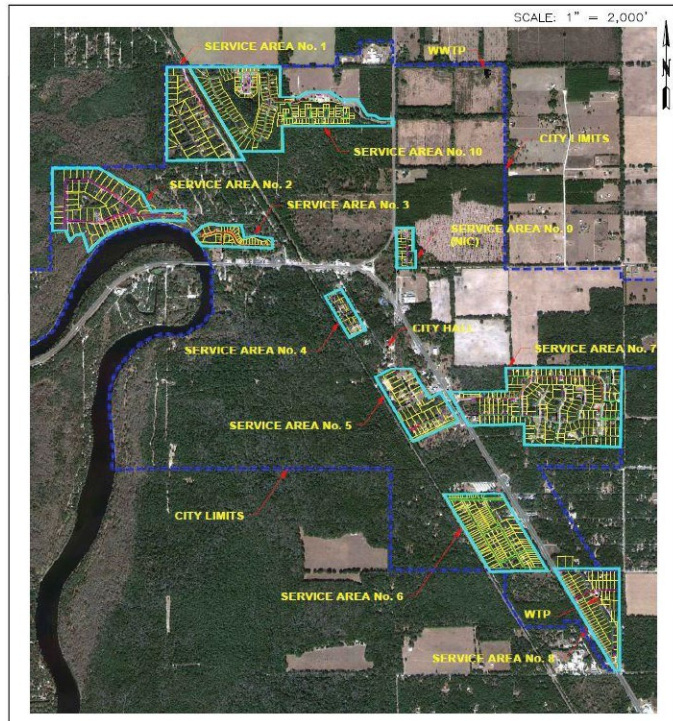
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improvement plan with involvement from the Department, City, and the Suwannee River Water Management District (SRWMD). The Project is located within the City's Wastewater Collection System Service area in Gilchrist and Levy Counties, at the City's Advanced Wastewater Treatment (AWT) Wastewater Treatment Facility (WWTF) site and the Riverwalk subdivision.

The City entered into an engineering services contract for the phase funded under the Agreement on January 15, 2020, with professional engineering contractor. The City has an established Agreement for continuing consulting engineering services with the contractor in accordance with Section 287.055, F.S. The City also entered into a construction contract through competitive selection on April 7, 2020, for the Riverwalk Wastewater Collection System Extension funded under the Agreement.

According to the Conceptual Wastewater Service Area Map, the Project is divided into ten Service Areas. The Riverwalk subdivision is in Service Area 10. According to the Project Manual, work in the Riverwalk subdivision Project Service Area 10 was further divided into two parts; Service Area 10A and Service



City of Fanning Springs Conceptual Wastewater Service Area Map

Area 10B. Funding for the Project's Service Area 10A was provided by the Department in

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Agreement LP61030 with the SRWMD. According to the City’s engineering services contract, the Agreement provides funding for engineering and construction in Service Area 10B.

The Agreement requires that the City purchase land for a new AWT WWTF as well as the land for the effluent disposal system. The City will also construct a wetlands treatment/aquifer recharge for effluent disposal. The new AWT WWTF will have a master plan for an overall capacity of 800,000 gallons per day (GPD). The facility will be constructed for 400,000 GPD in the first phase and designed for a future addition of a second 400,000 GPD process train. The previous 100,000 GPD plant’s tanks will be converted to sludge digestion or other side-stream functions. The City is also to complete the wastewater collection system construction within the Riverwalk subdivision. This will include approximately 4,400 linear feet of gravity sewer work, elimination of 18 existing onsite sewage treatment and disposal systems and provide service for 46 future customers.

Agreement funding of \$3,350,000 was budgeted under the following three tasks.

Task	Title	Deliverable Description	Amount
1	Land Acquisition	Acquire fee simple or less-than-fee simple interest on properties for the new AWT WWTF and wetlands treatment/aquifer recharge for effluent disposal.	\$500,000
2	Preconstruction Activities	Develop a master plan for the AWT WWTF with an ultimate capacity of 800,000 GPD. Work will include detail design for construction of the 400,000 GPD AWT WWTF with wetlands treatment/aquifer recharge for effluent disposal and associated support facilities.	\$1,500,000
3	Construction	Construct the Riverwalk Wastewater Collection System Extension under FY 2019-2020 funding. The AWT WWTF wetlands treatment/aquifer recharge for effluent disposal will be constructed under subsequent-year funding.	\$1,350,000
		Total	\$3,350,000

The Agreement requires the City to contribute \$4,000 to the cost of the Project. Advance payment is authorized under the Agreement. As of October 31, 2020, two advance payments totaling \$1,600,000 had been distributed to the City.

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Results

Payments and Deliverable Documentation

We reviewed documentation for the following payments approved by the Division.

Advance Payment	Payment Date	Amount
1	4/16/20	\$800,000
2	10/30/20	\$800,000
Total		\$1,600,000

Advance payment is authorized under the Special Terms and Conditions Attachment 2 Paragraph 3c. of the Agreement. However, the Agreement as executed did not contain an exhibit outlining advance payment terms (Exhibit E) normally included in Department agreements where advanced payment is authorized. Through discussions with the Division, the Agreement was amended on April 12, 2021, to include advance payment terms in Exhibit E.

For the first approved advance payment, the City requested funding for each of the three tasks as follows.

Advanced Payment	Date Requested	Payment Date	Funding for Task 1	Funding for Task 2	Funding for Task 3	Amount
1	3/31/2020	4/16/2020	\$50,000.00	\$50,000.00	\$700,000.00	\$800,000.00

Under the second advanced payment request, the City provided documentation for \$689,492.59 in expenditures associated with the Task 3 construction of the Riverwalk Wastewater Collection System Extension. The City also provided documentation of an outstanding invoice to the City’s construction contractor for \$204,134.06, which exceeded the first advance payment balance. However, Grant management documented \$171,000 of the total submitted cost as engineering under Task 2 for preconstruction activities of the AWT WWTF.

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Based on documentation submitted by the City, the engineering costs were associated with Task 3 construction activities for the Riverwalk Wastewater Collection System Extension. During the course of our audit, the Division amended the Agreement Grant Work Plan Task 2 *Preconstruction Activities* to include preconstruction activities for the wastewater collection system within the Riverwalk subdivision. According to submitted invoices, engineering services were related to construction administration and project management of the Project Service Area 10B, Riverwalk subdivision. These activities were closely aligned to the City’s engineering services contract for the construction task and with Project management tasks outlined under the former Agreement LP61030.

Section 215.971(1) F.S. requires that Department Agreements providing state financial assistance must include *a provision specifying a scope of work that clearly establishes the tasks that the recipient or subrecipient is required to perform*. The Grant Work Plan Project description and deliverables under Tasks 2 and 3 of the Agreement do not provide a scope of work that clearly establishes activities consistent with the City’s engineering services contract or that differentiate Agreement Tasks for construction from the Riverwalk Wastewater Collection System Extension activities funded under Agreement LP61030.

The Department approved the City’s second request for Grant Work Plan Task Funding as follows.

Task	Title	Amount
1	Land Acquisition	\$450,000
2	Preconstruction Activities	\$50,000
3	Construction Services (Riverwalk Service Area 10B)	\$300,000
	Total	\$800,000

At the time of our audit, the City had not submitted invoices associated with these costs nor request for the remaining funds under the Agreement. According to the Grant Work Plan of the

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Agreement, *the DEP Grant Funds associated with this Agreement were awarded based on local contributions pledged towards the total project costs: \$4,000 from the City of Fanning Springs. Documentation of these local contributions will be required in the Final Quarterly Progress Report.* At the time of our audit, the City had not yet submitted documentation of the local contributions nor the Final Quarterly Progress Report.

Management Oversight and Controls over Agreement Compliance

According to the Grant Work Plan in the Agreement, documentation required for deliverables under Task 3 included *signed acceptance of the completed work to date by the Grantee and the Engineer's Certification of Payment Request.* The performance standard required that *the Department's Grant Manager will review the documentation to verify that the deliverables are completed as described above. Upon review and written acceptance by the Department's Grant Manger, the Grantee may proceed with payment request submittal.* The City and City's engineer submitted the signed Certification of Payment Request. The Division's Grant Manager documented written acceptance of deliverables.

Per Paragraph 10 in Attachment 1 of the Agreement, the City is required to submit quarterly status reports no later than 20 days following the completion of the quarterly reporting period. Of the quarterly reports due for activities beginning January 2020, all were submitted to the Department by the City. However, the reports were submitted between one and nine days past the due date. All four reports were reviewed by the Division as required.

The Agreement allows the City to subcontract work without prior consent of the Department's Grant Manager. According to Paragraph 11 of the Agreement Special Terms and Conditions in Attachment 2, *The Grantee shall submit a copy of the executed subcontract to the*

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Department prior to submitting any invoices for subcontracted work. Invoices for subcontracted work associated with the first advanced payment were submitted to the Division with the second advance payment request on August 19, 2020. However, the Division did not obtain a copy of the executed engineering services agreement until November 23, 2020, and the executed construction contract until December 10, 2020.

Paragraph 12 of the Agreement requires the City and its contractors to maintain insurance related to Agreement activities. We verified that the City and its contractors maintained the required insurance coverage.

The Grant Work Plan requires the City to *provide to the Department a status update on the plan each year, by March 1, to include an anticipated date that additional funding will be needed for the projects listed in Attachment 3, Figure 2, Fanning Springs Multi-year funding plan.* A status update was provided to the Department as required from the City.

Conclusion

Based on our audit, advanced payments were made for activities associated with the Grant Work Plan. However, we noted control weaknesses with the executed Agreement and the Division's oversight of the Agreement Grant Work Plan Tasks.

Finding and Recommendation

Finding 1: Scope of Work, Task Description, and Deliverables

Section 215.971(1) F.S. requires that Department Agreements providing state financial assistance must include *(a) A provision specifying a 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*

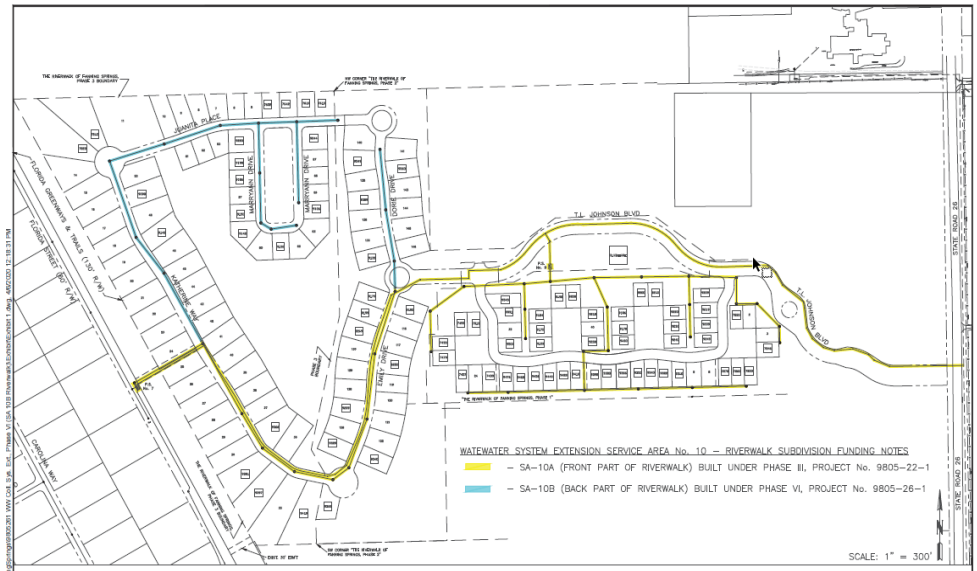
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by the agency before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.

The Riverwalk subdivision is located in the Project Service Area 10. Funding for the Project's Service Area 10 was provided by the Department in Agreement LP61030 with the

SRWMD. According to the Project Manual and an amendment to Agreement LP1030, work in the Riverwalk subdivision Project Service Area 10 was further divided into two parts; Service Area 10A and Service Area 10B.



*City of Fanning Springs Riverwalk Service Area 10 Modification
Source: Project Manual – Wastewater Collection System Extension, Phase VI City Wastewater Service Area 10B, Riverwalk Subdivision. Updated April 4, 2020. (Obtained from the City during our audit)*

According to the City's engineering services contract, funding under the Agreement for construction included Service Area 10B. The Construction Task described under the Agreement and the City's engineering services contract were as follows.

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Agreement Task 3- Construction	City's Engineering Contract Task 2- Construction (Completion of Riverwalk Subdivision, Site Area 10B)												
<p>Deliverables: The Grantee will construct the Riverwalk Wastewater Collection System Extension under the current FY 2019-20 funding and the AWT WWTF, a wetlands treatment/aquifer recharge for effluent disposal under subsequent multi-year funding in accordance with the construction contract documents.</p> <p>Documentation: The Grantee will submit a signed acceptance of the completed work to date by the Grantee and the Engineer's Certification of Payment Request.</p>	<p>1. Engineering services will include revisions to the original Service Area 10 (SA-10) drawings which were reduced to SA-10A drawings. The new work will include the upgrade of pump stations 7 and 9 to include emergency generators and Automatic Transfer Switches (ATS) as well as updating or revising the plans and specs for a new SA-10B. Upon completion of the drawing revisions, the engineer will prepare permit modifications if necessary, and assist with obtaining construction pricing and/or bids.</p> <p>Additionally, the engineer shall provide standard Engineering Construction Administration Services including the preparation of construction contract documents; attending a preconstruction conference; reviewing the contractor's material show drawings; making periodic visits to the site to observe the progress of the various aspects of the contractor's work; reviewing and approval of the contractor's application for payment; processing change order, if required; reviewing the contractor's completion document and record drawings; and performing a final inspection of the work.</p> <p>The engineer shall also provide the services of a Resident Project Representative (RPR) by providing full-time, on-site visits during the construction of the project.</p> <p>The engineer shall update the City's Wastewater System Operation & Maintenance Manual to include the generators at Pump Stations 7 & 9. The engineer shall provide start-up services for the new generators at Pump Stations 7 & 9.</p> <p>2. Also included as part of the Construction Task is Engineering Project Management. This work includes assisting the client with project funding for this task which includes; preliminary planning; application work; preparing reimbursement requests; submitting project updates; attending meetings, and other coordination services with the funding agency. The engineer will also assist the client in overall management of the project including coordination with the various project stakeholders, attending City Council meetings, attending public meetings, etc. to support the client's efforts in completing the project.</p>												
Task 3- Construction Funding	Task 2- Completion of Riverwalk Subdivision Site Area 10B Funding												
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Construction</td> <td style="text-align: right; width: 40%;">\$1,350,000</td> </tr> </table>	Construction	\$1,350,000	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"> <ul style="list-style-type: none"> • Construction of Septic to Sewer Conversion • Engineering design & permit revisions, construction administration and RPR • Engineering project management </td> <td style="width: 40%; text-align: right; vertical-align: top;"> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">\$1,160,000</td> <td style="width: 40%;"></td> </tr> <tr> <td style="width: 60%;">\$150,000</td> <td style="width: 40%;"></td> </tr> <tr> <td style="width: 60%;">\$40,000</td> <td style="width: 40%;"></td> </tr> <tr> <td style="width: 60%;">Total</td> <td style="width: 40%; text-align: right;">\$1,350,000</td> </tr> </table> </td> </tr> </table>	<ul style="list-style-type: none"> • Construction of Septic to Sewer Conversion • Engineering design & permit revisions, construction administration and RPR • Engineering project management 	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">\$1,160,000</td> <td style="width: 40%;"></td> </tr> <tr> <td style="width: 60%;">\$150,000</td> <td style="width: 40%;"></td> </tr> <tr> <td style="width: 60%;">\$40,000</td> <td style="width: 40%;"></td> </tr> <tr> <td style="width: 60%;">Total</td> <td style="width: 40%; text-align: right;">\$1,350,000</td> </tr> </table>	\$1,160,000		\$150,000		\$40,000		Total	\$1,350,000
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The Agreement Grant Work Plan does not clearly establish the construction related tasks that the City and the City's contractors are required to perform. Construction tasks under prior Project Agreement LP61030 did not specifically identify construction activities tasked for Service Area 10 as Service Area 10A. However, under Agreement LP61030, the Grant Work Plan included five specific Tasks with detailed descriptions and required quantifiable units of deliverables specifically associated with the tasked activities. This included a requirement for a

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signed statement from a Florida Licensed Professional Engineer and signed acceptance of the completed project by the Grantee to verify that they meet the specifications in the grant work plan and the task description. When Agreement LP61030 was amended to divide construction activities in Service Area 10 to two parts, this requirement was removed. Neither the Agreement, nor the City's engineering services contract require certification from a Florida Licensed Professional Engineer of completion for the designated portion of the Project.

According to Paragraph 11 of the Special Terms and Conditions in Attachment 2 of the Agreement, the City may subcontract work without prior consent of the Department's Grant Manager. The City is required to *submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work*. Invoices for subcontracted work associated with the first advanced payment were submitted to the Division with the second advance payment request on August 19, 2020. However, the Division obtained a copy of the executed engineering services contract on November 23, 2020, and the executed construction contract on December 10, 2020.

The City's second advanced payment request under the Agreement was accompanied by a listing of engineering and construction contract expenditures all designated under Task 3. However, since the City's construction task activities and specific deliverables were not clearly established in the Agreement, and the City's executed contracts had not been obtained, Grant management documented the engineering contractor's \$171,000 portion of the total cost as engineering costs under Task 2 for preconstruction activities of the AWT WWTF. The following table illustrates differences in the documentation of task related invoices.

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Support for First Advance Payment Cost Submitted with the Request for Second Advance Payment (Approved 10/30/2020)				
Task Number	Total Invoices as indicated by the Division	Invoice Amounts	Invoices as submitted by the City	Invoice Amounts
1	0	\$0	0	\$0
2	5	\$171,000.00	0	\$0
3	3	\$518,492.59	8	\$689,492.59
Total:	8	\$689,492.59	8	\$689,492.59

Subsequent to our inquiry regarding invoiced costs, the Division amended the Agreement Grant Work Plan Task 2 *Preconstruction Activities* as follows.

Agreement LPS0019 Task 2 Preconstruction Activities	Agreement LPS0019 Task 2 Preconstruction Activities – Amendment (4/12/2021)
<p>Deliverables: <i>The Grantee will develop a master plan for the AWT WWTF with an ultimate capacity of 800,000 GPD. Additionally, the work will include the detailed design for the construction of the 400,000 GPD AWT WWTF with wetlands treatment/aquifer recharge for effluent disposal and associated support facilities.</i></p> <p>Deliverables: <i>The Grantee shall provide engineered master plan layout drawings for the 800,000 GPD facility. Additionally, the Grantee shall provide detailed construction drawings and specifications, as well as, permit applications for the 400,000 GPD facility.</i></p>	<p>Deliverables: <i>The Grantee will develop a master plan for the AWT WWTF with an ultimate capacity of 800,000 GPD. Additionally, the work will include the detailed design for the construction of the 400,000 GPD AWT WWTF with wetlands treatment/aquifer recharge for effluent disposal and associated support facilities. <u>The Grantee will also perform preconstruction activities for the wastewater collection system within the Riverwalk subdivision.</u></i></p>
<p>Documentation: <i>1) The Grantee will submit the master plan for the AWT WWTF. 2) The Grantee will submit a signed acceptance of the completed work by the Grantee and a summary of design activities to date, indicating the percentage of design completion of the time period covered in the payment request. For the final documentation, Grantee will also submit a copy of the final design and a list of all required permits identifying issue dates and issuing authorities.</i></p>	<p>Documentation: <i>1) The Grantee will submit the master plan for the AWT WWTF. 2) The Grantee will submit a signed acceptance of the completed work by the Grantee and a summary of design activities to date, indicating the percentage of design completion of the time period covered in the payment request. For the final documentation, Grantee will also submit a copy of the final design and a list of all required permits identifying issue dates and issuing authorities.</i></p>

Preconstruction activities within the Riverwalk subdivision had already been funded by the Department under Agreement LP61030. In addition, the Task 2 updated deliverable did not include any updated documentation requirements for preconstruction activities.

Without a clear description of the specific Project phase and service area to be included in the funded construction activities and without required deliverables and documentation that

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demonstrate completion of Grant Work Plan expectations, the Department has no assurance of the work being completed or accountability for Project costs.

Recommendation:

We recommend the Division amend the Agreement Grant Work Plan to clearly establish specific tasks and deliverables associated with construction activities for the Riverwalk subdivision in Service Area 10B. This should include requirements for documentation from the City and certification from a Florida Licensed Professional Engineer that demonstrates completion of the funded portion of the Project. Going forward, the Division should work with Grant management and the City to ensure future agreements for Project phases clearly define the phase, Service Area, and expectations for documentation to demonstrate phase completion. In addition, Division Grant management should ensure that the City submits executed contracts prior to submitting any invoices for contracted work.

Management Comment

Advance Payments

Advance payment is authorized under the Special Terms and Conditions Attachment 2 Paragraph 3c. of the Agreement. However, the Agreement as executed did not contain an exhibit outlining advance payment terms (Exhibit E) normally included in Department agreements where advanced payment is allowed. Through discussions with the Division, the Agreement was amended on April 12, 2021, to include advance payment terms in Exhibit E.

According to Section 216.181(16)(b) F.S., *The amount that may be advanced shall not exceed the expected cash needs of the contractor or recipient within the initial 3 months.*

Thereafter, disbursements shall only be made on a reimbursement basis. Chapter 69I-40.120(2)

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Florida Administrative Code (F.A.C.) states that *Agencies wishing to make advance payment under the provisions of paragraph 216.181(16)(b), F.S., but in a manner other than that required by that section must request a waiver of the section from the Chief Financial Officer [CFO]. The request for waiver must include the appropriation line item number, justification for advancing funds in a manner other than as required by paragraph 216.181(16)(b), F.S., and show why such advance payment is in the best interest of the State.*

A request for waiver from the requirement in Section 216.318, F.S. was submitted by the Department to the Department of Financial Services (DFS) Office of the CFO due to the City's fiscal constraints. DFS approved the Department's request. However, prior Project funding under Agreement LP61030 with the SRWMD included funding to the City on a cost reimbursement basis¹. Based on a review of payment under Agreement LP61030, the City had paid its contractors prior to requesting reimbursement from the SRWMD. The Division would benefit from a review and documentation of the criteria used to determine an entity's need for advanced payment. Advance payments should be limited to circumstances which align with Section 216.181, F.S., or which demonstrate documented justification for advancing funds in a manner other than as required by Section 216.181(16)(b), F.S., to show why such advance payment is in the best interest of the State.

¹ Agreement LP61030 was executed June 24, 2016. Department payments for request of cost reimbursement originating from the City were made through November 2020.

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To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Lawrence Pickle and supervised by Valerie J. Peacock.

Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

*Valerie J. Peacock,
Director of Auditing*

*Candie M. Fuller,
Inspector General*



FLORIDA DEPARTMENT OF Environmental Protection

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3900 Commonwealth Boulevard
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Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Interim Secretary

Memorandum

To: Valerie Peacock, Audit Director
Office of the Inspector General

FROM: Trina Vielhauer, Director Trina Vielhauer
Division of Water Restoration Assistance Digitally signed by Trina Vielhauer
Date: 2021.06.14 12:24:20 -04'00'

SUBJECT: Report A-2021DEP-011
Audit of Agreement LPS0019 with the City of Fanning Springs

DATE: June 14, 2021

This memorandum will serve as the response to the subject audit findings and recommendations. The Division appreciates the effort required for the audit and produce the resulting report. We appreciate the opportunity to provide comments.

Finding 1:

Recommendation: *We recommend the Division amend the Agreement Grant Work Plan to clearly establish specific tasks and deliverables associated with construction activities for the Riverwalk subdivision in Service Area 10B. This should include requirements for documentation from the City and certification from a Florida Licensed Professional Engineer that demonstrates completion of the funded portion of the Project. Going forward, the Division should work with Grant management and the City to ensure future agreements for Project phases clearly define the phase, Service Area, and expectations for documentation to demonstrate phase completion. In addition, Division Grant management should ensure that the City submits executed contracts prior to submitting any invoices for contracted work.*

Response: We acknowledge the recommendation and will amend the agreement to improve the clarity of the grant work plan regarding the phase, service area and documentation required to demonstrate phase completion. We will also remind the grant manager to work with the grantee to receive executed contracts prior to submitting invoices for contracted work.

Management Comment [Some text omitted for brevity]

Advance payments should be limited to circumstances which align with Section 216.181, F.S., or which demonstrate documented justification for advancing funds in a manner other than as required by paragraph 216.181(16)(b), F.S., to show why such advance payment is in the best interest of the State.

Response: We acknowledge the recommendation and will make an effort to better confirm the need and balance with the requirement that advance payments be in the best interest of the State.