

Sponsored by: Janke

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2004-065**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A BANK QUALIFIED LOAN AGREEMENT IN THE AMOUNT OF \$10,000,000 WITH SUNTRUST BANK TO FINANCE THE COST OF CONSTRUCTION FOR VARIOUS CAPITAL PROJECTS AND REFUNDING OF THE 98/99<sup>TH</sup> STREET PROPERTY LOAN**

**WHEREAS**, the City of Marathon has been reviewing various alternatives of financing to assist with the cost of construction for Community Park Phase II, a City Hall, an Events Field, a Fire Station, and a Swimming Pool as well as the refinancing of the 98/99<sup>th</sup> Street loan balance; and

**WHEREAS**, the Finance Director reviewed three proposals of financing which included issuing revenue bonds and bank qualified loan programs; and

**WHEREAS**, the financing will be secured by the City's Local Discretionary Sales Surtax; and

**WHEREAS**, the City wishes to pledge no more than 50% of the Local Discretionary Sales Surtax; and

**WHEREAS**, the fixed rate of 4.30% results in an average annual debt service of \$889,121 or 41% of the annual estimated Local Discretionary Sales Surtax; and

**WHEREAS**, the SunTrust loan proposal represents a savings of \$535,770 over the term of the facility; and

**WHEREAS**, it is recommended that the City borrow funds through a \$10,000,000 bank qualified loan with SunTrust Bank.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**

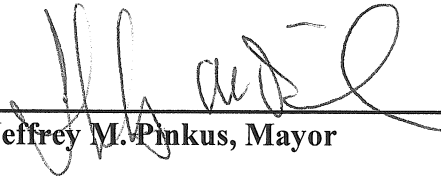
**Section 1.** The City Manager is authorized to execute all required documents to close the loan, subject to review and approval by the City Attorney.

**Section 2.** The City Manager is authorized to take all necessary action and execute all required documents to refund the existing loan for the 98<sup>th</sup>/99<sup>th</sup> Street property.

**Section 3.** This resolution shall take effect immediately upon its adoption.

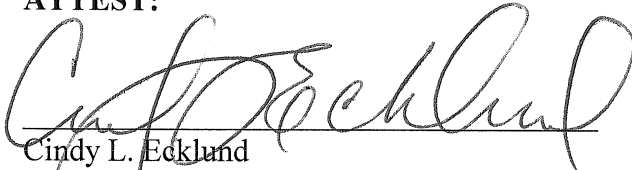
**PASSED AND APPROVED** by the City Council of the city of Marathon, Florida, this 22nd day of June, 2004.

**THE CITY OF MARATHON, FLORIDA**

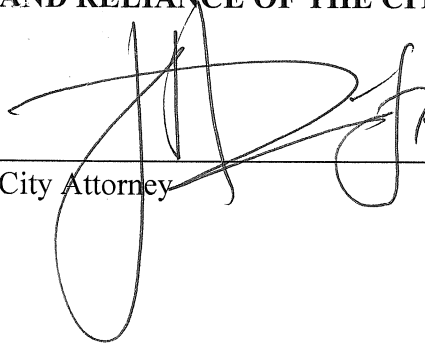
  
\_\_\_\_\_  
**Jeffrey M. Pinkus, Mayor**

AYES: Bartus, Bull, Mearns, Miller, Pinkus  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Cindy L. Ecklund  
City Clerk  
  
(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

  
\_\_\_\_\_  
City Attorney



June 16, 2004

Scott Janke  
City Manager  
City of Marathon  
10045-55 Overseas Highway  
Marathon, Florida 33050

**RE: \$10,000,000.00 tax-exempt bank-qualified Bond**

Dear Mr. Janke:

SunTrust Bank (hereinafter referred to as the "Bank") is pleased to inform you that it has approved and hereby extends to the City of Marathon its commitment to provide a \$10,000,000 Bond under the following terms and conditions, and such additional terms and conditions as may be reasonably required heretofore.

1. **BORROWER:**  
City of Marathon (hereinafter referred to as the "Borrower").
2. **FACILITY:**  
Up to a \$10,000,000.00 tax-exempt bank-qualified Bond (hereinafter referred to as the "Bond"). The Bond shall have up to an 18 month draw-down period that shall expire no later than January 1, 2006.
3. **PURPOSE:**  
Debt proceeds will be used to finance several projects under the City's capital infrastructure plan (Community Park phase II, City Hall, Event Field, Fire Station, Swimming Pool) and refinance the City's 98/99<sup>th</sup> Street loan balance.
4. **COLLATERAL:**  
The facility will be secured by the Note Pledged Revenues consisting of Borrower's Local Government One-Cent Sales Tax revenues ("Local discretionary sales surtax").
5. **MATURITY:**  
The Bond will mature on July 1, 2019.

6. **REPAYMENT:**

During the draw down period, payments of interest only shall be due quarterly. At the expiration of the draw down period, the outstanding balance shall be amortized over a 13.5 year period based on quarterly payments of principal plus interest, the first of which being due on April 1, 2006. (See attached Amortization Schedule: Level Principal Debt Service – Principal plus Interest)

All quarterly payments shall be due on July 1, October 1, January 1, and April 1, beginning October 1, 2004. All payments by the Borrower shall be made by the due date by no later than 2:00 p.m. to the Bank in immediately available funds, free and clear of any defenses, set-offs, counterclaims, or withholdings or deductions for taxes.

There shall be no prepayment penalty. The Borrower shall provide 10 days notice of its intent to prepay the Bond in whole or in part.

7. **FEE(S) AND EXPENSES:**

The Borrower shall be required to pay attorney's fees for review of all legal documents, which shall be the lesser of time spent or \$2,500.00, based upon Borrower's counsel preparing the documentation.

8. **INTEREST RATE:**

The Bond shall bear a tax-exempt bank qualified rate of 4.30% fixed for fifteen years. This rate is good through July 11, 2004.

In the event that the transaction does not close prior to July 11, 2004, the Bond shall bear a fixed rate to be set on 1 business day prior to the Note origination date and it shall be equal to sum of {the 10 year federal reserve interest rate swap rate, "the index rate", times 65.4%} plus 82 basis points. The index rate can be found at the following website: <http://federalreserve.gov/releases/h15swaprates.htm>. Interest at the foregoing rate will be computed on the basis of a 360-day year with twelve 30-day months.

9. **DOCUMENTATION:**

At or prior to closing, the Bank shall have received all documents that are typical for transactions of this nature.

10. **FINANCIAL REPORTING REQUIREMENTS:**

The Borrower shall submit audited financial statements and an operating budget for all funds, as ratified by the Mayor and City Commission statements to the Bank not less than annually.

**11. COVENANTS & CONDITIONS:**

Funding of the Bond is contingent upon a satisfactorily legal opinion as to the Borrower's tax-exempt status and authority under its Charter to borrow money, as well to the fact that the Bond constitutes bank-qualified status. The legal opinion and the authority to borrow money must be acceptable to the Bank in form, manner, tenure and purpose.

The Borrower covenants to not violate or amend the limit on debt as defined in the Borrower's Charter. There shall be no material adverse change in the Borrower's financial condition prior to closing.

**12. DEBT SERVICE COVERAGE COVENANT:**

Annual collection of Pledged Revenue Source shall provide a minimum of 1.25x coverage of the required debt service for the note and all other obligations secured by the Pledged Revenues in any given fiscal year.

In the event that projected annual collection of Pledged Revenue Source is insufficient to cover the required debt service, Borrower agrees to appropriate in its annual budget, from Non-Ad Valorem Revenues lawfully available to the City in each fiscal year, amounts sufficient for the payment of principal and interest on the Notes when due.

Any future additional borrowings secured by the Pledged Revenues shall require a Parity Debt Service Coverage of 1.50x.

**13. ATTORNEY'S FEE AND COSTS IN THE EVENT BOND DOES NOT CLOSE:**

Borrower agrees that should this transaction fail to close for any reason, the Bond counsel shall be entitled to be reimbursed for any of their out-of-pocket costs and to be paid a reasonable fee for its services through the expiration date of this Commitment, and Borrower understands that such fee shall be paid by Borrower immediately upon receipt of a statement.

**14. INTEREST RATE ADJUSTMENT:**

If the Bond is issued at a tax exempt rate but later the interest on the Bond becomes taxable for any reason, then the Bond will bear interest from the earliest effective date as of which interest payable on the Bond is includable in the gross income of the Bank at a rate per annum equal to the interest rate on this Bond times [1.53] [multiplier if non bank qualified] (the "Taxable Rate"). In addition, the interest rate on this Bond shall be adjusted to provide the same after tax yield to the Bank in the event of any change in the maximum corporate tax rate applicable to the Bank from 35% [or any elimination or change in the preference reduction rate of 80% applicable to "bank qualified bonds". The Borrower shall also pay any additions to tax and penalties resulting from the inclusion of the interest on the Bond in the gross income of the Bank for federal income tax purposes, and any arrears in interest resulting therefrom. Any such additions to tax, penalties and interest shall be paid by the Borrower on the next succeeding interest payment date.

**15. ARBITRAGE RESPONSIBILITY:**

The Borrower shall assume whatever responsibility and take whatever action is necessary to assure that the Bond will not constitute an "arbitrage bond" under the provision of Section 148 of the Code. Additionally, the Borrower shall covenant to comply with any and all rebate requirements contained in Section 148 of the Code.

**16. INTEREST RATE LIMITATION:**

The Borrower shall be responsible for ensuring that the Bond complies with the provisions of Section 215.84, Florida Statutes, relating to maximum rate of interest including, but not limited to, the filing of a request with the State Board of Administration for authorization of the interest rate provided herein, if such interest rate is in excess of the maximum rate.

**17. REPRESENTATIONS:**

The Borrower warrants and represents that to the best of its knowledge all the documents and/or information provided to the Bank prior to the date hereof are true and correct and further acknowledges that the issuance of this Commitment Letter by the Bank is in reliance upon the accuracy and truth of said documents and/or information. Further, the Borrower warrants and represents that all material information known to the Borrower has been disclosed to the Bank and the Borrower acknowledges that the Bank has relied upon this representation in the issuance of this Commitment Letter.

**18. COMPLIANCE:**

This Commitment shall comply with the regulations of the Comptroller of the Currency and the regulatory agencies governing the Bank.

**19. ACCEPTANCE:**

This Commitment shall be considered null and void unless the Borrower shall acknowledge acceptance hereof by signing and returning this letter on or before June 30, 2004.

On behalf of SunTrust Bank it is our pleasure to extend this credit to you and we look forward to a mutually beneficial relationship. If you have any questions, please give me a call at (305) 579-7014, otherwise execute the commitment letter where indicated below.


Sincerely,

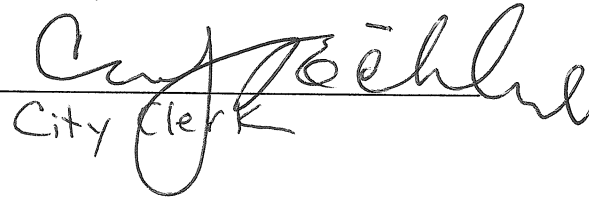
Delle Joseph  
Vice President  
Institutional & Governmental Banking

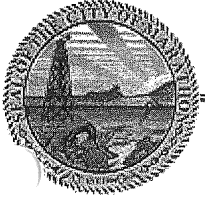
ACCEPTANCE: The terms and conditions of this Commitment are hereby accepted.

Dated: 6/23/04.

City of Marathon

By:   
As its: City Manager

Witnessed By:   
As its: City Clerk



## CITY OF MARATHON, FLORIDA

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10045-55 Overseas Highway, Marathon, Florida 33050  
Phone: (305) 743-0033 Fax: (305) 743-3667

Date: June 24, 2004

To: Delle Joseph, Vice President SunTrust Bank, South Florida

From: Clara Perrine, Admin. Assist. To City Clerk/HR Officer

Re: \$10,000,000.00 tax-exempt bank-qualified Bond.

Enclosed you will find a signed copy of the loan agreement as well as a copy of the City's Resolution regarding this agreement.

Should you need anything further, please do not hesitate to contact me.

Thanks,

Clara