

**CITY OF MARATHON, FLORIDA
RESOLUTION 2005-143 A**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE THIRD AMENDMENT TO THE MEMORANDUM OF AGREEMENT WITH THE FLORIDA KEYS AQUEDUCT AUTHORITY TO ENSURE THAT THE COSTS AND EXPENSES OF OUTSIDE CONSULTANTS ARE COVERED BY THE FUNDS FROM THE MARATHON MUNICIPAL SERVICE TAXING UNIT

WHEREAS, on January 26, 2004, the parties entered into a Memorandum of Agreement (“MOA”) whereby the City would use its staff, including any contractual employees, to assist the Florida Keys Aqueduct Authority (“FKAA”) in the planning for the construction of the central wastewater collection and treatment system for the City of Marathon. The FKAA agreed to reimburse the City for these costs from funds collected from the Marathon Municipal Service Taxing Unit (“MSTU”); and

WHEREAS, it is beneficial to the parties that the City retain outside consultants to assist the City and the FKAA in the planning for the construction of the central wastewater and treatment system; and

WHEREAS, it is sometimes necessary for City staff and contractual employees to travel outside of the City of Marathon to perform services in connection with the MOA; and

WHEREAS, the FKAA and the City intend to continue to cooperatively work together to perform the planning and development necessary as a condition precedent to the construction and operation of central wastewater collection and treatment infrastructure serving the property owners within the MSTU.

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

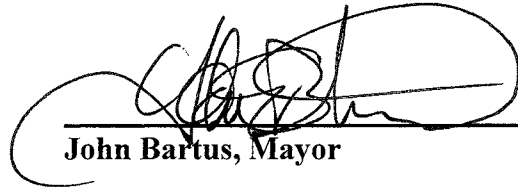
Section 1. The above recitals are true and correct and are incorporated herein

Section 2. The Council approves the amended MOA between the City and the FKAA, a copy of which is attached hereto as Exhibit “A”.

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

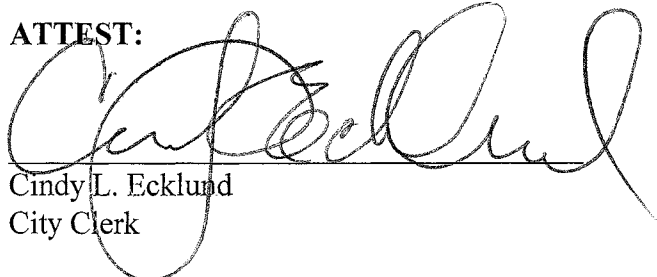
PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 11th day of October, 2005.

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

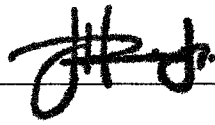
AYES: Bull, Mearns, Miller, Pinkus, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

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

AMENDMENT #3
TO A MEMORANDUM OF AGREEMENT
By and Between
Florida Keys Aqueduct Authority and the City of Marathon

THIS AMENDMENT TO AN AGREEMENT is entered into this 31st day of October, 2005 by and between the City of Marathon, a political subdivision of the State of Florida (the "City") and the Florida Keys Aqueduct Authority (the "FKAA"), an independent special district organized and existing under Chapter 76-441, as amended, Florida Statutes.

WHEREAS, on February 1, 2004, the parties entered into a Memorandum of Agreement (as amended from time to time, the "Memorandum of Agreement") whereby the City would use its staff, including any contractual employees, to assist FKAA in the planning for the construction of the central wastewater collection and treatment system for the City. The FKAA agreed to reimburse the City for these costs from funds collected from the Marathon Municipal Service Taxing Unit ("MMSTU"); and

WHEREAS, the City has, in some cases, utilized outside consultants to work with its staff and contractual employees to provide the assistance to the FKAA as contemplated under the Memorandum of Agreement; and

WHEREAS, the provision of assistance to the FKAA has on occasions required City staff and contractual employees to travel outside of Marathon (including to Tallahassee, Florida) to perform their functions; and

WHEREAS, the City wishes, both retroactively and prospectively, to be reimbursed by the FKAA for the fees and costs associated with such outside consultants and for travel-related expenses from funds collected from the MMSTU;

NOW, THEREFORE, in consideration of the mutual promises, benefits and covenants set forth below, the parties agree as follows:

1. All capitalized terms used herein but not defined herein shall have the meaning ascribed to them in the Memorandum of Agreement..
2. Subparagraph 2 of the Memorandum of Agreement is hereby amended by adding the following sentence to the end thereof:

For purposes hereof, (i) the term "contractual employees" shall include any outside consultants retained by the City to assist the FKAA as set forth above, including, but not limited to, Patricia L. McNeese, Keith & Schnars, P.A., Rosasco, Reasin & Company, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., Weiler Engineering Corporation and any consultant retained by the City to perform a rate study, and (ii) the term "costs" shall

include travel expenses incurred by City staff and contractual employees in rendering services hereunder.

3. The parties agree that this Amendment shall be deemed to have been effective as of the date of the Memorandum of Agreement, and shall be applied retroactively to such date.

4. This Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original and all of which shall together constitute one and the same agreement. Signature pages may be detached from the various counterparts and attached to a single copy of this document to physically form one document.

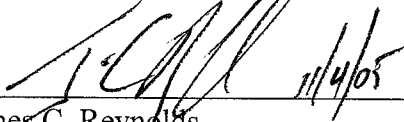
5. The foregoing terms and conditions are hereby incorporated into the Memorandum of Agreement. Except as modified herein, the Memorandum of Agreement remains in full force and effect. In the event of any conflict or ambiguity between the Memorandum of Agreement and this Amendment, this Amendment shall control.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement on the dates opposite their names.

(SEAL)

THE FLORIDA KEYS AQUEDUCT AUTHORITY

By:  11/4/05
James C. Reynolds
Executive Director
FKAA Board Approved 10/27/05


ATTEST:


Clerk

THE CITY OF MARATHON

By: 
City Designee

ATTEST:


Cindy L. Ecklund
City Clerk

(City Seal)