

RESOLUTION 2007 –107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, PERTAINING TO THE DEVELOPMENT AND IMPLEMENTATION OF THE FLORIDA KEYS REASONABLE ASSURANCE DOCUMENTATION; AUTHORIZING THE CITY MANAGER TO SIGN THE FKRAD STAKEHOLDER'S AGREEMENT; SUPPORTING CONTINUATION OF STAFF PARTICIPATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the "City") recognizes that the Florida Keys are a unique and irreplaceable natural system that constitutes a local, State and National treasure; and

WHEREAS, the City recognizes that the Florida Keys are a linear collection of small watersheds which are hydrologically connected at the local level by the nearshore waters of the Keys; and

WHEREAS, the City recognizes that the Florida Keys are continuously impacted by nutrient concentrations in offshore waters, associated with a wide range of natural sources and phenomena including global warming, deep ocean upwelling, micro-nutrients and viruses in African dust storms that reach the Keys; and

WHEREAS, the City recognizes that water quality in the nearshore waters of the Florida Keys are continuously influenced by their interactions with offshore waters that have elevated nutrient concentrations attributable to a wide range of anthropogenic activities far outside of the Florida Keys; and

WHEREAS, the City does not control or influence the major sources of nutrient loading into the offshore and nearshore waters surrounding the Florida Keys; and

WHEREAS, the City recognizes that a portion of the nutrients in the nearshore waters of the Florida Keys originate from anthropogenic activities occurring within the Florida Keys which are within the purview and scope of authority of federal, state and regional agencies and the local Keys governments; and

WHEREAS, the City recognizes that the major portions of the nutrients in the nearshore waters of the Florida Keys originate from anthropogenic activities outside of the Florida Keys and are not within the purview and scope of authority of the local Keys governments and agencies; and

WHEREAS, the City wishes, nevertheless, to control the nutrient loading derived from its own local wastewater, stormwater, and land development discharges; and

WHEREAS, the City recognizes that elevated nutrient concentrations have contributed of the degradation of water quality in the Florida Keys; and

WHEREAS, the City is interested in managing the water quality in the Florida Keys to preserve and improve the aquatic environment and living resources now existing in the Florida Keys; and

WHEREAS, the City recognizes that a comprehensive watershed approach is needed to reduce nutrients and address water quality issues within the Florida Keys; and

WHEREAS, a multitude of regulatory, technical assistance, research, and education programs have been developed and are well coordinated but must be used in combination with incentives and other non-regulatory tools to form a comprehensive approach to address the full scope of water quality issues within the Florida Keys; and

WHEREAS, a substantial level of federal, state, regional, local and private resources are being sought and committed to a new coordinated approach must recognize and build upon effort and progress from the work of all of these programs; and

WHEREAS, the resource management actions referenced in Table COM-1 (included herein) of the Florida Keys Reasonable Assurance Documentation (the “FKRAD”), which includes both projects that have been completed by the City since 2000 and projects that will be completed by 2015, are deemed effective in improving water quality within the City; and

WHEREAS, a Stakeholder’s Agreement (the “Agreement”) has been prepared confirming the management actions to which the City is committed to complete as part of this program; and

WHEREAS, in the event that the United States Environmental Protection Agency does not accept the Reasonable Assurance Document as a substitute for the total maximum daily load approach under the Federal Clean Water Act, the Agreement shall automatically be terminated and shall be of no further force or effect.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING PREMISES, WHICH ARE MADE PART OF THE AGREEMENT, THE CITY HEREBY AGREES TO THE FOLLOWING:

1. The City understands that the Florida Keys Reasonable Assurance Documentation was developed through a collaborative effort between the Florida Department of Environmental Protection (the “FDEP”), local governments in the Florida Keys, other local, state, and regional agencies, and private and public interests to identify cost-effective actions that can be undertaken to achieve reasonable assurance for the nutrient discharge to nearshore waters in the Florida Keys;

2. The City Council acknowledges that representatives from the City have participated in the development of the FKRAD and the management actions contained within it; and

3. On July 25, 2007, the City Council received a briefing on the contents of the FKRAD to date, and understands that, although there will be some revisions to the plan before it is adopted by order of the FDEP Secretary, the revisions are not expected to significantly change any fiscal or policy impacts to the City.

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

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. The City supports the continued development and finalization of the FKRAD, with the participation of representatives of the City.

Section 3. The City commits to the implementation of the management actions identified in Table COM-1 of the FKRAD pertinent to the City, and for project identified for future implementation, will seek the necessary approvals and funding to carry out the management actions for which the City has responsibility.

Section 4. The City will give careful and fair consideration to future modifications of the FKRAD after its approval by state and federal agencies.

Section 5. The City supports staff participation in the coordinated tracking of FKRAD implementation; in follow-up meetings with the FDEP and other stakeholders; and revising the FKRAD as necessary to ensure the management actions are being implemented.

Section 6. The City endorses the continuation of a coordinated and comprehensive management approach to address and achieve the goals of the FKRAD for the portion of the FKRAD within the City.

Section 7. The City authorizes the City Manager to represent the City in reviewing and signing the final Agreement, prior to its adoption by DEP. However, if staff determines that revisions to the FKRAD after the date of this resolution significantly change any fiscal or policy commitments herein made by the City, staff will brief the City Manager and the City Council and request further direction before agreeing to the plan.

Section 8. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 25th day of July, 2007.


Christopher M. Bull, Mayor

AYES: Cinque, Tempest, Vasil, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

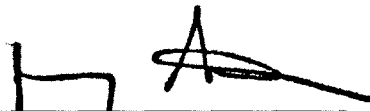
ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



City Attorney

Central Keys Area Reasonable Assurance Documentation

STAKEHOLDER AGREEMENT

City of Marathon

Background

Whereas, the Signatory to this Agreement recognizes that the Florida Keys are a unique and irreplaceable natural system that constitutes a local, State and National treasure; and

Whereas, the Signatory to this Agreement recognizes that the Florida Keys are a linear collection of small watersheds which are hydrologically connected at the local level by the nearshore waters of the Keys; and

Whereas, the Signatory to this agreement has an interest and an obligation to manage local anthropogenic nutrient contributions in order to control cumulative water quality impacts within the local zone of impact in the nearshore waters of the Florida Keys; and

Whereas, the Signatory to this Agreement recognizes that the Florida Keys are continuously impacted by nutrient concentrations in offshore waters associated with a wide range of natural sources and phenomena including deep ocean upwelling, micro-nutrient and viruses in African dust storms that reach the Keys; and

Whereas, the Signatory to this Agreement recognizes that water quality in the nearshore waters of the Florida Keys are continuously influenced by their interactions with offshore waters and loop currents that have elevated nutrient concentrations attributable to a wide range of anthropogenic activities far outside of the Florida Keys; and

Whereas, the Signatory to this Agreement do not control the major sources of nutrient loading into the offshore and nearshore waters surrounding the Florida Keys; and

Whereas, the Signatory to this Agreement wishes, nevertheless, to control the nutrient loading generated by local wastewater and stormwater discharges to the extent practicable; and

Whereas, the Signatory to this Agreement recognizes that elevated nutrient concentrations have contributed to the degradation of water quality in the Florida Keys; and

Whereas, the Signatory to this Agreement recognizes that a portion of the nutrients in the nearshore waters of the Florida Keys originate from anthropogenic activities occurring within the Florida Keys which are within the purview and scope of authority of the local Keys governments and agencies; and

Whereas, the Signatory to this Agreement recognizes that a portion of the nutrients in the nearshore waters of the Florida Keys originate from anthropogenic activities outside of the Florida Keys and are not within the purview and scope of authority of the local Keys governments and agencies; and

Whereas, the Signatory to this Agreement is interested in managing the water quality in the Florida Keys to preserve and improve the aquatic environment and living resources now existing in the Florida Keys; and

Whereas, the Signatory to this Agreement recognizes that a comprehensive watershed approach is needed to reduce nutrients and address water quality issues within the Florida Keys; and

Whereas, multiple regulatory, technical assistance, research, and education programs has been developed and are well coordinated but must be used in combination with incentives and other non-regulatory tools to form a comprehensive approach to address the full scope of water quality issues within the Florida Keys; and

Whereas, a substantial level of federal, state, regional, local and private resources are being sought and committed to, and a new coordinated approach must recognize and build upon effort and progress from the work of all of these programs; and

Whereas, the resource management actions identified in this agreement are deemed effective in improving water quality within the Florida Keys watersheds.

Now therefore, in consideration of the foregoing premises, which are made part of this Agreement, the Signatory hereby agrees to the following:

I. Geographic Applicability

The geographic area of this agreement is limited to the Central Keys Area.

II. Participants in the Central Keys Area Reasonable Assurance Document

The following municipalities and agencies are participants in the Central Keys Area Reasonable Assurance Document:

- City of Key Colony Beach;
- City of Layton;
- City of Marathon;
- Monroe County;
- Florida Department of Transportation; and
- Florida Division of Recreation and Parks.

III. Mission

The common mission of the signatories of this agreement is to reduce the annual discharge of nutrients to the halo zone waters of the Central Keys Area (WBIDs 6010, 6011A, 6011B, 6011C, and 6016) in order to protect and enhance the unique marine environment of the nearshore waters of this portion of the Florida Keys. To this end the signatory stakeholders agree to:

1. Work together to assess anthropogenic sources of total nitrogen and total phosphorus being discharged to the halo zone waters;
2. Work individually to optimize reductions of locally generated anthropogenic nutrient concentrations in the local halo zones;
3. Work collaboratively to minimize discharges of anthropogenic sources of total nitrogen and total phosphorus to waters of these watersheds in compliance with existing federal and state laws and rules and regional requirements, and emphasizing voluntary, incentive-based programs for protecting the environment and public health;
4. Coordinate and collaborate with federal, state, regional agencies/programs, local governments and interested parties to improve the coordination, use and benefits provided by existing regulatory, technical assistance, research, and education programs; and,

5. Work individually and collaboratively to provide the required funding for wastewater and stormwater management activities using local, regional, state or federal funding.

IV. Guiding Principles

The signatory stakeholders agree to adopt the following guiding principles in achieving the mission:

1. Use a comprehensive, regionally integrated management approach to address Class III marine water quality standards for halo zone waters and encourage timely implementation of proposed and planned management actions within the Florida Keys watersheds;
2. Focus on management approaches which are technically feasible, economically practicable, and protective of the environment and public health;
3. Implement wastewater management actions – including wastewater collection, treatment and disposal practices – as required by Chapter 99-395, Laws of Florida, as amended as a primary management practice for reducing nutrient discharges to the halo zone waters;
4. Implement stormwater management actions – including regulations, design standards and criteria, education programs, collection systems and treatment facilities, and O&M activities – to the maximum extent practicable throughout their watersheds to achieve Class III water standards in the halo zone waters;
5. Maximize availability of local resources to the extent practicable, and the efficient coordination of federal, state, and regional agency resources and programs, and local resources and avoid unnecessary duplication of efforts;
6. Where appropriate, pursue opportunities for joint projects that provide more cost effective solutions and may make better use of consolidated and coordinated funding of projects;
7. Seek reasonable, incentive based solutions that can be embraced by leaders and stakeholders in the Keys communities and at all levels of government;
8. Develop consensus measures of success that include monitoring of the progress of management actions;
9. Achieve results that satisfy regulatory requirements;
10. Employ water quality monitoring to measure the effectiveness of implemented water quality improvement measures;
11. Continue to make good faith efforts in funding incentive-based programs; and
12. Participate in annual reporting activities that demonstrate successful reduction of nutrient discharges.

V. Organization

The signatories, through their own individual efforts, combined with interlocal cooperation and the integrated efforts of numerous federal, state and local programs, have created a fabric of regulatory, operational, capital construction and educational programs that function collectively as an integrated management plan for the multiple watersheds in the Florida Keys.

While no designated leader or management committee exists for this informal watershed plan, there are a number of oversight entities that provide guidance and leadership including:

- DCA (by virtue of the Keys' designation as a Area of Critical State Concern);
- Florida Keys National Marine Sanctuary Steering Committee; and
- Sanctuary Advisory Committee.

Primary planning activities have been accomplished by the individual stakeholder governments for their jurisdictional areas. These planning activities have received a defacto integration effort through a number of studies, regulations and overlay planning including:

- Monroe County Sanitary Wastewater Master Plan;
- Monroe County Stormwater Master Plan;
- Growth Management Act, Chapter 163, Part II, Florida Statutes;
- Monroe County Comprehensive Plan, regulated under Chapter 9J-14, Florida Administrative Code;
- City of Marathon Comprehensive Plan, regulated under Chapter 9J-14, Florida Administrative Code;
- Florida Keys Carrying Capacity Plan;
- FDEP's wastewater and stormwater management regulations;
- Designation of the Florida Keys as an Area of Critical State Concern, Chapters 163 and 380, Florida Statutes;
- Chapter 9J-5, Florida Administrative Code, Comprehensive Growth Management (monitored by DCA); and
- Chapter 99-395, Laws of Florida, as amended.

The combination of wastewater and stormwater regulatory programs will continue to address the specific impairments to water quality recognized at the time of signature.

This agreement applies only to the currently identified nutrient impairment in the halo zone WBIDs previously identified in Paragraph III. Nutrient impairments in other halo zone WBIDs in the Florida Keys will be addressed through a separate agreement(s) and the participation of appropriate stakeholders.

VI. Education, Outreach and Implementation

For the signatory stakeholders to accomplish their mission, education on the issues and solutions, including effective transfer of knowledge and technology, are essential components of implementation of the efforts of the Technical Working Groups.

VII. Stakeholder Involvement and Commitments

For the collective stakeholders to be successful, the involvement of each individual stakeholder is critical. As part of this framework agreement, a process for stakeholder involvement is developed and will be implemented by the signatories. This commitment is based on mutual cooperation, shared objectives, fairness, and the support and participation from the Parties to this Agreement.

Specific management action commitments of the signatory stakeholder, with respect to the Central Keys Area Reasonable Assurance Document, are summarized in their entirety in the following table:

**CITY OF MARATHON
PROPOSED AND IMPLEMENTED MANAGEMENT PRACTICES**

WBID	Management Action	Estimated Total Nitrogen Load Reduction (lbs/year)	Estimated Total Phosphorous Load Reduction (lbs/year)	Actual or Anticipated Operational Date
IMPLEMENTED MANAGEMENT PRACTICES				
	NO FACILITIES			
PROPOSED FUTURE MANAGEMENT PRACTICES				
6011A	Installation of central wastewater collection system serving Service Area 2 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 33 EDUs [City of Marathon]	322	80	June 2009
6011A	Installation of central wastewater collection system serving Service Area 1 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 312 EDUs [City of Marathon]	1,672	760	November 2009
6011A	Installation of stormwater interception and treatment system serving approximately 81 acres in conjunction with the central wastewater collection system serving Service Area 1 [City of Marathon]	32	5	November 2009
6011A	Installation of central wastewater collection system serving Service Area 6 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 1,014 EDUs [City of Marathon]	9,270	2,475	May 2009
6011B	Installation of central wastewater collection system serving Service Area 6 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 14 EDUs [City of Marathon]	120	35	May 2009
6011A	Installation of stormwater interception and treatment system serving approximately 390 acres in conjunction with the central wastewater collection system serving Service Area 6 [City of Marathon]	152	23	May 2009
6011A	Installation of central wastewater collection system serving Service Area 3 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 1,565 EDUs [City of Marathon]	15,885	3,814	October 2009
6011A	Installation of stormwater interception and treatment system serving approximately 248 acres in conjunction with the central wastewater collection system serving Service Area 3 [City of Marathon]	97	15	October 2009
6011A	Installation of central wastewater collection system serving Service Area 4 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 2,283 EDUs [City of Marathon]	20,701	5,563	October 2009
6011A	Installation of stormwater interception and treatment system serving approximately 1,010 acres in conjunction with the central wastewater collection system serving Service Area 4 [City of Marathon]	392	59	October 2009

WBID	Management Action	Estimated Total Nitrogen Load Reduction (lbs/year)	Estimated Total Phosphorous Load Reduction (lbs/year)	Actual or Anticipated Operational Date
6011A	Installation of centralized cluster wastewater collection system serving Service Area 7 and provision of secondary treatment with disposal in a shallow effluent disposal wells serving 360 EDUs [City of Marathon]	1,888	944	April 2010
6011C	Installation of centralized cluster wastewater collection system serving Service Area 7 and provision of secondary treatment with disposal in a shallow effluent disposal wells serving 1,237 EDUs [City of Marathon]	6,710	3,240	April 2010
6011A	Installation of stormwater interception and treatment system serving approximately 1,672 acres in conjunction with the central wastewater collection system serving Service Area 7 [City of Marathon]	650	98	April 2010
6011A	Installation of central wastewater collection system serving Service Area 5 and provision of AWT treatment with disposal in a shallow effluent disposal well serving 2,668 EDUs [City of Marathon]	28,177	6,503	December 2010
6011A	Installation of stormwater interception and treatment system serving approximately 1,135 acres in conjunction with the central wastewater collection system serving Service Area 5 [City of Marathon]	441	67	December 2010
CENTRAL KEYS AREA CITY OF MARATHON TOTAL NUTRIENT REDUCTIONS		86,509	23,681	

VIII. Measures of Success

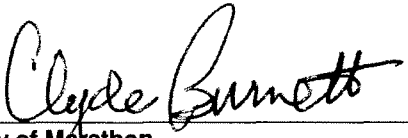
Water quality issues in the Florida Keys watersheds have developed from various inputs over an extended period of time. Successfully addressing these issues will require sufficient time to implement management changes and evaluate their effect. Specific measures of success include:

- Reporting that specific management actions previously identified in VII have been implemented as of a specific date;
- Annually reporting that specific management actions previously identified in VII and are being operated and maintained to achieve their design treatment levels; and
- Submission of monthly Discharge Monitoring Reports (DMRs) to FDEP permitted wastewater treatment facilities to substantiate the actual levels of nutrient reduction being achieved by the operating systems on a continuing basis.

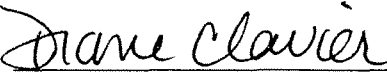
IX. Condition to Effectiveness

The signatories hereby agree that in the event the United States Environmental Protection Agency does not accept the Florida Keys Reasonable Assurance Document for the Central Keys Area in lieu of the total maximum daily load approach under the Federal Clean Water Act, then this Agreement shall automatically be terminated and shall be of no further force or effect.

The undersigned, an authorized agent of the City of Marathon, agrees to the foregoing Stakeholders Agreement for the Central Keys Area Reasonable Assurance Documentation:



City of Marathon
Clyde Burnett, City Manager
Date: 6/18/08

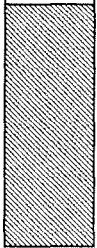
Attest:


Diane Clavier, City Clerk
Date: 6/18/08

Florida Keys Reasonable Assurance Documentation
CENTRAL KEYS STAKEHOLDERS AGREEMENT

Table COM-1
CITY OF MARATHON COMMITMENTS
July 25, 2007

	Management Action	Estimated Annual Pollutant Load		Estimated Annual Reduction of Discharged Pollutant Load (lbs/year)		Actual or Anticipated Operational
		Total Nitrogen	Total Phosphorus	Total Nitrogen	Total Phosphorus	Date
1	Design, construction and operation of wastewater collection, transmission, treatment, effluent reuse and effluent disposal facilities to serve 9,009 EDUs in Service Areas 1-7 to eliminate existing private wastewater facilities	99,686	26,454	80,351	22,025	6/30/2010
2	Design, construction and operation of stormwater collection, treatment, reuse and disposal facilities in Service Areas 1-7 to reduce the pollutant load associated with existing stormwater runoff from 3,670 acres of developed land	23,787	3,565	2,299	342	6/30/2010

Total Load Reduction Attributable to City Management Actions	123,473	30,019	82,650 67%	22,367 75%	
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