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**CITY OF MARATHON, FLORIDA
RESOLUTION 2008-13**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AMENDMENT NO. 1 TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) BUREAU OF WATER FACILITIES FUNDING WASTEWATER GRANT LP6802 TO ACCEPT ADDITIONAL GRANT MONEY IN THE AMOUNT OF \$100,000; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Environmental Protection (“FDEP”), Bureau of Water Facilities Funding provided \$1,000,000 in 2006-2007 grant funding to the City for the Service Area #4 Wastewater facilities project; and

WHEREAS, the City entered into Agreement No. LP6802 with the FDEP to set forth the terms and conditions of the grant funding; and

WHEREAS, the FDEP has awarded additional grant money for the City’s Service Area #4 wastewater facilities project in the amount of \$100,000, bringing the total for Agreement No. LP6802 to \$1,100,000.

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 incorporated herein.

Section 2. The Council hereby approves Amendment No. 1 to Agreement No. LP6802 between the City and the Florida Department of Environmental Protection attached as Exhibit “A” hereto. The City Manager and City Attorney are authorized to finalize the terms and conditions of the Agreement and the City Manager is authorized to execute said Amendment on behalf of the City.

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 January , 2008.

THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

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



Jimmy Morales, City Attorney

**STATE FINANCIAL ASSISTANCE AGREEMENT
DEP AGREEMENT NO. LP6802
CITY OF MARATHON
AMENDMENT NO. 1**

THIS AGREEMENT as entered into on the 19th day of March, 2007, between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "Department") and the CITY OF MARATHON (hereinafter referred to as the "Grantee" or "Recipient") is hereby amended.

WHEREAS, additional funding in the amount of \$100,000 is available to continue wastewater treatment in CITY OF MARATHON; and,

WHEREAS, the Department believes that it is essential to allow for the continuation of these services through November 30, 2009; and,

WHEREAS, additional changes to the Agreement are necessary.

NOW, THEREFORE, the parties hereto agree as follows:

1. The title of the Agreement is hereby revised to read as follows:

**STATE FINANCIAL ASSISTANCE AGREEMENT
DEP AGREEMENT NO. LP6802
CITY OF MARATHON**

**PURSUANT TO LINE ITEM 1818 OF THE 2006-2007 GENERAL APPROPRIATIONS ACT, AND
LINE ITEM 1859 OF THE 2007-2008 APPROPRIATIONS ACT**

2. Section 3.A. is hereby deleted in its entirety and replaced with the following;

As consideration for the services rendered by the Grantee under the terms of this Agreement, the Department shall pay the Grantee on a cost reimbursement basis in an amount not to exceed \$1,100,000 toward the total project cost estimate of \$24,790,000. The funding consists of \$1,000,000 provided in the original Agreement and \$100,000 in Amendment 1. The parties hereto agree that the Grantee is responsible for providing a minimum match of 60 percent toward the project described in Attachment A. Written approval from the Department's Grant Manager shall be required for changes between budget categories up to 10% of the total budget. The DEP Grant Manager will transmit a copy of the written approval and revised budget to the DEP Contracts Disbursements Office for inclusion in the Agreement file. Changes greater than 10% will require a formal amendment to the Agreement. If the Grantee finds, after receipt of competitive bids, that the work described in **Attachment A** cannot be accomplished for the current estimated project cost, the parties hereto agree to modify the Project Work Plan described in **Attachment A** to provide for the work that can be accomplished for the funding identified above.

3. Section 5. is hereby deleted in its entirety and replaced with the following;

Progress Reports (**Attachment C**) shall be submitted describing the work performed, problems encountered, problem resolution, schedule updates and proposed work for the next reporting period. Progress reports shall be submitted in conjunction with the Disbursement Request Package, described in paragraph 3.B. If advance payment is authorized, the Grantee shall report (and document as required under paragraph 3 and on **Attachment E**) the amount of funds expended during the reporting period, the Agreement expenditures to date, interest earned during the quarter and clearly indicate the method for repayment of the interest to the Department (see paragraph 15). It is understood and agreed by the parties that the term "reporting period" reflects the period of time for which the invoices submitted in the Disbursement Request Package are covered. The Department's Grant Manager shall have ten (10) calendar days to review deliverables submitted by the Grantee.

4. **Attachment A-1, Revised Project Work Plan**, attached hereto is hereby added to the Agreement. All references in the Agreement to **Attachment A** shall hereinafter include **Attachment A, Project Work Plan** and **Attachment A-1, Revised Project Work Plan**.

In all other respects, the Agreement of which this is an Amendment, and attachments relative thereto, shall remain in full force and effect.

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This Amendment 1 to Grant Assistance Agreement LP6802 shall be executed in two or more counterparts, either of which shall be regarded as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Department has caused this amendment to the Grant Assistance Agreement to be executed on its behalf by the Deputy Director of the Department and the Grantee has caused this amendment to be executed on its behalf by its Authorized Representative. The effective date of this amendment shall be as set forth below by the Deputy Director of the Department of Environmental Protection, Division of Water Resource Management.

CITY OF MARATHON

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Michael Heits
City Manager:

By: P.M. Co
Deputy Director
Division of Water Resource Management

Date: 1/25/08

Date: JAN 30 2008

Tommy Williams
Tommy Williams, DEP Grant Manager

*For Agreements with governmental boards/commissions: If someone other than the Chairman signs this Amendment, a resolution, statement or other document authorizing that person to sign the Amendment on behalf of the Grantee must accompany the Amendment.

List of attachments/exhibits included as part of this Amendment:

<u>Specify Type</u>	<u>Letter/Number</u>	<u>Description (include number of pages)</u>
Attachment	A-1	Revised Project Work Plan (3 pages)
Attachment	D-1	Special Audit Requirements (5 pages, including Exhibit 1)

ATTACHMENT A-1
LP6802
CITY OF MARATHON
Revised Project Work Plan
Wastewater Facilities Project – Service Area #4

A. PROJECT BUDGET

PROJECT BUDGET					
Category of Expenditure	DEP Grant Funds			Other Funds	Total Funding
	FY 05/06 LP6116	FY 06/07 LP6116	FY 07/08 LP6802		
Design	-	-	-	675,000	\$ 675,000
Construction	\$ 1,500,000	\$ 5,500,000	\$ 1,100,000	12,800,000	\$ 20,900,000
Contingency	-	-	-	1,390,000	\$ 1,390,000
Engineering Services During Construction	-	-	-	1,150,000	\$ 1,150,000
Other (including Land Acquisition)	-	-	-	675,000	\$ 675,000
Total	\$ 1,500,000	\$ 5,500,000	\$ 1,100,000	\$ 16,690,000 (1)	\$ 24,790,000

(1) Note: The breakdown of sources for “Other Funds” is as follows:

State Revolving Fund Loan Program -	\$ 15,451,000
SFWMD Grants	489,000
Marathon Municipal Service Taxing Unit (MSTU)	\$ 750,000

B. CRITERIA:

Prior to release of funds, the recipient must document that the wastewater project:

- ✓ Is designed to meet the wastewater treatment and disposal requirements in chapter 99-395, Laws of Florida, as amended;
- ✓ Is included in the Monroe County Sanitary Wastewater Master Plan or other formally adopted planning document addressing engineering and financing;
- ✓ Involves exclusively construction or design-build;
- ✓ Has been openly procured among contractors qualified to build wastewater facilities in the physical environment of the Florida Keys;
- ✓ Is to be located on sites acquired no later than March 1, 2007;

- ✓ Will initiate construction no later than May 1, 2007;
- ✓ Will result in the completion of entire facilities or significant phases of facilities;
- ✓ Leverages other moneys (local funds, including local bonding; Department of Environmental Protection State Revolving Fund loans; or other sources of money) to the maximum extent possible;
- ✓ Shall provide at least a 60 percent match from any other sources except a direct line item appropriation from the State Legislature.
- ✓ Has in place a system of user charges, fees, assessments, or other funding mechanisms to pay for the completion of construction and long-term operation and maintenance of the project; and
- ✓ Provides mechanisms to ease the cost-burden of the project on low-income residents.

C. SCOPE OF PROJECT WORK:

Service Area 4 encompasses the area from approximately 33rd Street up to 60th Street and includes both ocean and bay sides of the Overseas Highway, as well as the entire Sombrero area (including the golf course). This project consists of a biological nutrient removal wastewater treatment plant (WWTP) facility with a capacity of .399 MGD and a vacuum collection system. The main disposal method proposed for this area is re-use. Reclaimed water will be provided to the Sombrero County Club for irrigation and storage, Marathon High School for irrigation, as well as the City's Sombrero Beach property. Class V shallow injection wells will provide additional/backup effluent disposal.

D. PROJECT SCHEDULE:

- (1) Award contract for construction of wastewater mains and collection system project on Sombrero Beach Road. April 30, 2006
- (2) Submit documentation to the Department addressing all other moneys being applied toward funding the Project and any other sources of funding being pursued, including loans, local bonding, and other state or federal funding. April 30, 2006.
- (3) Begin construction of wastewater mains and collection system on Sombrero Beach Road. No Later Than May 31, 2006 as set forth in Line Item 1717 of the General Appropriations Act for 2005-2006, Chapter 2005-70, Laws of Florida.
- (4) Submit DEP permit application(s) for Service Area 4 treatment plant and remaining collection system. January 12, 2007.
- (5) Submit documentation to the Department addressing the population and median household income of the areas to be served by the Project; document any provisions being made to ease the cost-burden of wastewater service on low-income residents. September 30, 2008 (as part of Item (12))

- (6) Advertise Invitation to Bid for Service Area 4 treatment plant on May 9, 2007 and remaining collection system construction on March 7, 2007.
- (7) Certify availability of all required wastewater plant and collection/transmission system sites, including easements and rights-of-way. May 30, 2007
- (8) Submit a completed Request for Inclusion form, plans, specifications, permits, and site certifications to the Bureau of Water Facilities Funding, Clean Water State Revolving Fund (CWSRF) Program for the Service Area 4 wastewater treatment and disposal facilities and the balance of the collection system. October 31, 2007.
- (9) Begin construction of Service Area 4 remaining collection system project. October 1, 2007.
- (10) Begin construction of Service Area 4 treatment plant. December 13, 2007.
- (11) Submit complete CWSRF construction loan application for the balance of funds necessary to complete all wastewater treatment facilities in Service Area 4. *As required based on SRF funding allocations/availability.*
- (12) Submit to the Department documentation of implementation of a proposed system of rates, fees, assessments, or other charges sufficient to repay the annual debt service resulting from the construction of the treatment facilities and the annual operation and maintenance costs. This system must be adopted timely to ensure ongoing operation and maintenance of the system. September 30, 2008.
- (13) Complete construction of treatment plant and collection systems and initiate operation. August 31, 2009.
- (14) Final completion and system turnover. November 30, 2009.

ATTACHMENT D-1

SPECIAL AUDIT REQUIREMENTS

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that the recipient expends a total amount of State financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement indicates State financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the State financial assistance expended in its fiscal year, the recipient shall consider all sources of State financial assistance, including State financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in State financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-State entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa/> or the Governor's Office of Policy and Budget website located at <http://www.ebudget.state.fl.us/> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website <http://www.leg.state.fl.us/Welcome/index.cfm>, Governor's Website <http://www.myflorida.com/>, Department of Financial Services' Website <http://www.fldfs.com/> and the Auditor General's Website <http://www.state.fl.us/audgen/pages/flsaa.htm>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this Attachment shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:
 - A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
 - B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132
 - C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

B. The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of 5 years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of 3 years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Federal Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category

State Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Funds for Federal Programs:					
Federal Program Number	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

State Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following Funds Subject of Section 215.97, F.S.:						
State Program Number	Original Agreement	State Fiscal Year	Catalog of State Financial Assistance Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	LI 1818 – Ecosystem Management & Restoration TF	2006-2007	37.039	Statewide Surface Water Restoration and Wastewater Projects	\$1,000,000	140047-06
Amend 1	LI 1859 – Ecosystem Management & Restoration TF	2007-2008	37.039	Statewide Surface Water Restoration and Wastewater Projects	\$100,000	140047-07

Total Award					\$1,100,000	
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For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<http://aspe.os.dhhs.gov/cfda>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<http://sun6.dms.state.fl.us/fsaa/>]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.