

**RESOLUTION NO. 2008-138**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA PROVIDING FOR THE BORROWING OF NOT EXCEEDING \$10,000,000 FROM BRANCH BANKING AND TRUST COMPANY, TO FINANCE THE COST OF A PORTION OF THE CONSTRUCTION AND IMPROVEMENTS TO THE WASTEWATER SYSTEM AND STORMWATER SYSTEM; PROVIDING FOR THE ISSUANCE OF A WASTEWATER SYSTEM REVENUE BOND, SERIES 2008, TO EVIDENCE THE CITY'S OBLIGATION TO REPAY SUCH LOAN; PROVIDING FOR THE PAYMENT OF THE SERIES 2008 BOND AND THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT IN CONNECTION THEREWITH, CONTAINING TERMS AND CONDITIONS RELATING TO SUCH LOAN; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2008 BOND AND THE LOAN AGREEMENT; DESIGNATING THE SERIES 2008 BOND AS A "QUALIFIED TAX EXEMPT OBLIGATION" UNDER 265(b)(3)(B) OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA (the "Issuer"):

**Section 1. Authority for this Resolution.** This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, the Charter of the City of Marathon, Florida, as amended, Chapter 166, Florida Statutes, and other applicable provisions of law (collectively, the "Act").

**Section 2. Definitions.** The following terms shall have the following meanings when used in this resolution unless the context clearly requires otherwise. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement. In the event of a conflict between the terms of this resolution and the Loan Agreement, the Loan Agreement shall govern.

"Bank" means Branch Banking and Trust Company, Charlotte, North Carolina and its successors and assigns.

"Commitment" means the Commitment for the making of the Loan submitted to the Issuer by the Bank, dated August 19, 2008, as revised on September 11, 2008.

"Funds and Accounts" means the funds and accounts created pursuant to the Loan Agreement as security for the repayment of the Series 2008 Bond.

“Investment Earnings” means the earnings from the investment of moneys on deposit in the Funds and Accounts.

“Loan” means the advance of moneys from the Bank to the pursuant to the Loan Agreement.

“Loan Agreement” means the Loan Agreement between the Bank and the City setting forth the terms and details of the Loan, in substantially the form attached hereto as Exhibit I, with such modifications and changes thereto as shall be approved by the Mayor, upon the advice of the City Attorney, such approval to be evidenced by the execution of the Mayor thereof.

“Mayor” means the Mayor of the City, or his designee.

“Paying Agent” means the Clerk of the City.

“Project” means the construction and improvement of the wastewater system and stormwater system and all costs incidental thereto.

“Project Costs” means a portion of the cost of undertaking the Project including, but not limited to: engineering, legal, accounting, and financial expenses; expenses for estimates of costs and of revenues; expenses for plans, specifications and surveys; fees of fiscal agents, financial advisors or consultants; administrative expenses relating solely to the Project; reimbursement to the City for any sums heretofore expended for the foregoing purposes; repayment of the advance made under bond anticipation notes; and such other costs and expenses as may be necessary or incidental to the financing or refinancing of the Project.

“Series 2008 Bond” means the not to exceed \$10,000,000 Wastewater System Revenue Bond, Series 2008, which shall be in substantially the form attached to the Loan Agreement as Exhibit I.

**Section 3. Findings.** It is hereby found, declared, and determined by the City:

(A) The City has heretofore determined that it is necessary and in the best interests of the health, safety and welfare of the City and its inhabitants that the City undertake the Project.

(B) The City is without currently available funds to pay the cost of the Project, and it is necessary and desirable that the City borrow the moneys necessary to provide for payment of the Project.

(C) It is necessary and desirable that the City issue the Series 2008 Bond at this time in order to provide moneys for payment of Project Costs.

(D) The City has received the Commitment from the Bank for the Loan and it is in the best interests of the City that the Commitment be accepted.

(E) The City does not expect to issue more than \$10,000,000 in tax-exempt obligations during the calendar year ending December 31, 2008.

(F) It is necessary and desirable to provide for the securing of the Loan and for the execution and delivery of the Loan Agreement, the issuance of the Series 2008 Bond and the taking of all other action in connection with the consummation of the Loan.

(G) It is necessary and desirable to approve the estimated costs of issuance to be paid by the City in connection with the delivery of the Series 2008 Bond and the Loan Agreement.

**Section 4. Authorization of Series 2008 Bond.** Subject and pursuant to the provisions hereof and in accordance with the provisions of the Loan Agreement and the Commitment, the issuance by the City of the Wastewater System Revenue Bond, Series 2008, in an aggregate principal amount not to exceed Ten Million Dollars (\$10,000,000), to be dated, to bear interest, to be payable, to mature, to be subject to redemption and to have such other characteristics as provided in the Series 2008 Bond, the Loan Agreement and the Commitment, and to be secured by permanent financing proceeds by the Florida Department of Environmental Protection is hereby approved and authorized.

**Section 5. Approval of Form of Loan Agreement and Series 2008 Bond.** The Loan Agreement and the Series 2008 Bond, in substantially the form attached hereto as Exhibit I, are hereby approved, and the Mayor and City Clerk are hereby authorized to execute and deliver the Loan Agreement and the Series 2008 Bond to the Bank, and to take such other actions as shall be necessary to consummate the Loan.

**Section 6. Authorization of Other Action.** The Mayor, City Manager, and City Clerk are each designated agents of the City in connection with the execution and delivery of the Loan Agreement and the Series 2008 Bond and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents or contracts on behalf of the City which are necessary or desirable in connection with the execution and delivery of the Loan Agreement and the Series 2008 Bond to the Bank, including, but not limited to, the making of modifications to the Loan Agreement and the Series 2008 Bond to conform the provisions thereof to the provisions of the Commitment.

**Section 7. Application of Proceeds of Loan.** The proceeds of the Loan shall be applied solely to payment of the Project Costs.

**Section 8. Designation Under Code Section 265(b)(3)(B).** The Series 2008 Bond is hereby designated as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code.

**Section 9. Repeal of Inconsistent Provisions.** All resolutions or parts thereof in conflict with this resolution are hereby repealed to the extent of such conflict.

**Section 10. Approval of Issuance Expenses.** The estimate of the expenses associated with the issuance of the Series 2008 Bond set forth in Exhibit II hereto is hereby approved and the City Manager is authorized to pay such expenses at the time of issuance of the Series 2008 Bond upon submission of proper invoices therefor.

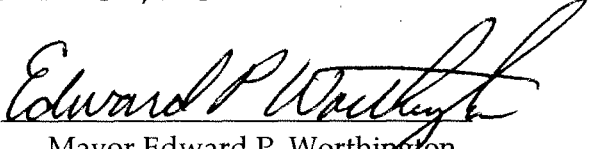
**Section 11. Severability.** If any one or more of the covenants, agreements, or provisions of this resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and in no way affect the validity of all other provisions of the Resolution or of the Series 2008 Bond or Loan Agreement delivered hereunder.

**Section 12. Amendment.** This resolution may not be amended or repealed except with the prior written consent of the Bank.

**Section 13. Effective Date.** This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Marathon, Florida this 23rd day of September, 2008.

CITY COUNCIL OF THE CITY OF  
MARATHON, FLORIDA

By:   
Mayor Edward P. Worthington

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

ATTEST

  
City Clerk

Approved as to form:

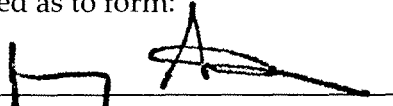
  
City Attorney

EXHIBIT I

FORM OF LOAN AGREEMENT

**LOAN AGREEMENT**

**between**

**CITY OF MARATHON, FLORIDA**

**and**

**BRANCH BANKING AND TRUST COMPANY**

**Dated September 25, 2008**

**Relating to**

**\$10,000,000**

**City of Marathon, Florida**

**Wastewater System Revenue Bond, Series 2008**

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This **LOAN AGREEMENT** is made and entered into as of September 25, 2008, by and between the CITY OF MARATHON, FLORIDA (the "Issuer"), and BRANCH BANKING AND TRUST COMPANY (the "Bank").

**WITNESSETH:**

WHEREAS, the Issuer has determined that it is in the best interest of the health, safety, and welfare of the Issuer and the inhabitants thereof that the Issuer construct the Project and pay the principal of and interest on the Series 2008 Bond when due; and

WHEREAS, the Issuer has determined to pay the Project Costs with the proceeds of the Loan, and it is necessary that funds be made available to the Issuer to provide financing for the Project, and

WHEREAS, pursuant to the Commitment, a copy of which is attached hereto as Exhibit B, the Bank has proposed to lend the Issuer the aggregate principal amount of \$10,000,000 to finance the Project Costs; and

WHEREAS, the Issuer has previously determined that it is necessary, desirable and in the best interests of the Issuer and its inhabitants that the Issuer undertake the Project hereinafter described, and that the Project will serve essential public purposes of the Issuer; and

WHEREAS, the obligation of the Issuer to repay principal of and interest on the Series 2008 Bond will not constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of any provision of the Constitution of the State, but shall be and is hereby declared to be a special, limited obligation of the Issuer, secured solely by a lien upon and pledge of the Pledged Revenues in the manner provided herein. The Issuer is not authorized and cannot be compelled to levy taxes on any property of or in the Issuer to pay the principal of or interest on the Series 2008 Bond or to make any other payments provided for herein. Furthermore, neither the Series 2008 Bond nor the interest thereon shall be or constitute a lien upon the Project or upon any other property of or in the Issuer;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

**Section 1. Definitions.** The following terms shall have the following meanings herein, unless the text otherwise expressly requires:

"Act" means Chapter 166, Florida Statutes; as amended and other applicable provisions of law.

"Authorized Investments" means any obligations, deposit certificates, or other evidences of indebtedness legal for investment pursuant to law, to the extent not inconsistent with the terms of the investment policy of the Issuer and applicable law.



"Bank" means Branch Banking and Trust Company, a state banking corporation, with offices located at 5130 Parkway Plaza Boulevard, Building #9, Charlotte, North Carolina 28217.

"Bond Counsel" means Bryant Miller Olive P.A., Miami, Florida.

"Business Day" means any day of the year other than a day on which the Bank or the Issuer are lawfully closed for business.

"Clerk" means the City Clerk of the Issuer or any Deputy Clerk.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commitment" means the Commitment for the making of the Loan submitted to the Issuer by the Bank, dated August 19, 2008, as revised on September 11, 2008, and attached hereto as Exhibit B.

"Default" means an Event of Default as defined and described in Section 16 hereof.

"Disbursement Date" means September 25, 2008, or such other date on which proceeds of the Loan are disbursed to the Issuer.

"Financial Advisor" means RBC Capital Markets, St. Petersburg, Florida.

"Fiscal Year" means the period from each October 1 to the succeeding September 30.

"Funds and Accounts" means the funds and accounts created pursuant hereto as security for the repayment of the Series 2008 Bond.

"Interest Rate" means 3.31% per annum as set forth in the form of Series 2008 Bond attached hereto as Exhibit A.

"Investment Earnings" means the earnings from the investment of moneys on deposit in the Funds and Accounts.

"Loan" means the advance of moneys from the Bank to the Issuer pursuant to this Loan Agreement for the purpose of financing Project Costs.

"Loan Agreement" means this agreement between the Bank and the Issuer setting forth the terms and details of the Loan.

"Maturity Date" means January 1, 2012.

"Mayor" means the Mayor of the Issuer or his designee.

"Non-Ad Valorem Revenues" means all revenues received by the Issuer (a) from sources other than the levy of ad valorem taxes upon property, and (b) not restricted by law so as to be unable to be applied to pay the principal of and interest on the Series 2008 Bond and to make the other payments, if any, required under the Series 2008 Bond or under this Loan Agreement, provided, that the Non-Ad Valorem Revenues are not subject to prior liens upon all or any specific portion thereof, whether now existing or hereafter arising.

“Paying Agent” means the Clerk.

“Payment Date” means the dates on which interest and/or principal on the Series 2008 Bond is payable, as described in Section 4 herein.

“Person” or words importing persons, means firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities, and natural persons.

“Pledged Revenues” means (i) with respect to principal payable on the Maturity Date, proceeds of the permanent financing pursuant to the letter of commitment from the Florida Department of Environmental Protection attached hereto as Exhibit C, (ii) the moneys on deposit in the Funds and Accounts, and (iii) certain Investment Earnings.

“Prepayment Date” means any date of prepayment of the principal of the Loan in part on any Payment Date or in whole at any time by the Issuer without a prepayment penalty.

“Prime Rate” means the interest rate announced by the Bank from time to time as its prime rate. Any change in the Prime Rate shall be effective as of the date such change is announced by the Bank.

“Principal Amount” means Ten Million Dollars (\$10,000,000).

“Project” means the construction and improvement of the wastewater and stormwater systems, and all costs incidental thereto as provided in the plans and specifications on file with the Clerk.

“Project Costs” means all or a portion of the cost of undertaking the Project including, but not limited to: engineering, legal, accounting, and financial expenses; expenses for estimates of costs and of revenues; expenses for plans, specifications and surveys; fees of fiscal agents, financial advisors or consultants; administrative expenses relating solely to the Project; reimbursement to the Issuer for any sums heretofore expended for the foregoing purposes; repayment of the advance made under bond anticipation notes; and such other costs and expenses as may be necessary or incidental to the financing or refinancing of the Project.

“Register” means the books maintained by the Registrar in which are recorded the name and address of the Registered Owner of the Series 2008 Bond.

“Registered Owner” means the person in whose name the ownership of the Series 2008 Bond is registered on the books maintained by the Registrar. The Registered Owner shall be the Bank.

“Registrar” means the Person maintaining the Register. The Registrar shall initially be the Clerk.

“Regulations” means the Income Tax Regulations promulgated by the Internal Revenue Service under Sections 103 and 141 through 150 of the Code.

“Resolution” means Resolution No. 2008-138 adopted by the Issuer on September 23, 2008, and all resolutions amendatory thereof and supplemental thereto.

“Series 2008 Bond” means the \$10,000,000 Wastewater System Revenue Bond, Series 2008 which shall be in substantially the form attached hereto as Exhibit A.

“State” means the State of Florida.

**Section 2. Interpretation.** Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Loan Agreement and all the terms and provisions hereof (a) have been negotiated between the Issuer and the Bank; (b) shall not be construed strictly in favor of or against either party hereto; and (c) shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

### **Section 3. The Loan.**

A. Loan. The Bank hereby makes and the Issuer hereby accepts the Loan, upon the terms and conditions set forth herein.

B. Disbursement of Proceeds. Proceeds of the Loan shall be made available by the Bank to the Issuer by deposit of the principal amount thereof to or for the order of the Issuer by 2:00 p.m. on the Disbursement Date in immediately available funds. The Issuer will provide written instructions to the Bank for the disbursement of the Loan proceeds to the Project Fund, hereby established, no later than 5:00 p.m. on the Business Day prior to the Disbursement Date.

Withdrawals from the Project Fund shall be made only for such purposes as shall have been previously specified in the Project Cost estimates and as shall be approved by the consulting engineers for the Project. The Issuer's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties, and all proceeds of insurance compensating for damages to the Project during the period of construction, shall be deposited in the Project Fund to assure completion of the Project.

Moneys in the Project Fund shall be secured by the depository bank in the manner prescribed by the laws of the State of Florida relating to the securing of public funds. All moneys deposited in said Project Fund shall be and constitute a trust fund created for the purposes stated, and there is hereby created a lien upon such fund in favor of the holders of the Bonds until the moneys thereof shall have been applied in accordance with this Loan Agreement.

**Section 4. Description of Series 2008 Bond.** The obligation of the Issuer to repay the Loan shall be evidenced by the Series 2008 Bond. The Series 2008 Bond shall be dated as of the Disbursement Date; shall mature on the Maturity Date; shall be in registered form; and shall bear interest from its date until full payment of the principal amount thereof, at the Interest Rate. Interest shall be payable semi-annually on each January 1 and July 1, commencing January 1, 2009 as set forth on Exhibit A, calculated on the basis of a 360-day year, comprised of twelve 30-day months, from its date as to principal at the Interest Rate shown on Exhibit A hereto. The Series 2008 Bond may be prepaid in part on any Payment Date or in whole at any

time prior to maturity without prepayment penalty, upon the terms and conditions contained in Exhibit A hereto and the Commitment.

If a Determination of Taxability, as defined in the Series 2008 Bond shall occur, the Bond will bear interest from the earliest effective date on which such Determination of Taxability is deemed to have occurred at a rate of interest equal to the Prime Rate plus 2%.

**Section 5. Execution of Series 2008 Bond.** The Series 2008 Bond shall be executed in the name of the Issuer by the Mayor and attested by the Clerk, and its corporate seal or a facsimile thereof shall be affixed thereto or reproduced thereon. The Series 2008 Bond may be signed and sealed on behalf of the Issuer by any person who at the actual time of the execution of such Series 2008 Bond shall hold the appropriate office in the Issuer, although at the date thereof the person may not have been so authorized. The Series 2008 Bond may be executed by the facsimile signatures of the Mayor and/or Clerk, provided that at least one of the foregoing signatures must be a manual signature.

**Section 6. Registration and Transfer of Series 2008 Bond.** The Series 2008 Bond shall be and shall have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code-Investment Securities Laws of the State of Florida, and each Registered Owner, in accepting the Series 2008 Bond, shall be conclusively deemed to have agreed that such Series 2008 Bond shall be and have all of the qualities and incidents of negotiable instruments thereunder.

There shall be a Registrar who shall be responsible for maintaining the Register. The person in whose name ownership of the Series 2008 Bond is shown on the Register shall be deemed the Registered Owner thereof by the Issuer and the Registrar, who may treat the Registered Owner as the absolute owner of the Series 2008 Bond for all purposes, whether or not the Series 2008 Bond shall be overdue, and any notice to the contrary shall not be binding upon the Issuer or the Registrar.

Ownership of the Series 2008 Bond may be transferred only upon the Register. Upon surrender to the Registrar for transfer or exchange of the Series 2008 Bond accompanied by an assignment or written authorization for exchange, whichever is applicable, duly executed by the Registered Owner or its attorney duly authorized in writing, the Registrar shall deliver in the name of the Registered Owner or the transferee or transferees, as the case may be, a new fully registered Series 2008 Bond of the same amount, maturity and interest rate as the Series 2008 Bond surrendered.

The Series 2008 Bond presented for transfer, exchange, redemption or payment (if so required by the Issuer or the Registrar) shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Issuer or the Registrar, duly executed by the Registered Owner or by his duly authorized attorney.

The Issuer and the Registrar may charge the Registered Owner a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after the first such exchange or transfer following the delivery of such Series 2008 Bond. The Registrar or the Issuer may also require payment from the Registered Owner or his transferee, as the case may be, of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed

in relation thereto. Such charges and expenses shall be paid before any such new Series 2008 Bond shall be delivered.

The new Series 2008 Bond delivered upon any transfer or exchange shall be a valid obligation of the Issuer, evidencing the same debt as the Series 2008 Bond surrendered, shall be secured under this Loan Agreement, and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2008 Bond surrendered.

Whenever the Series 2008 Bond shall be delivered to the Registrar for cancellation, upon payment of the principal amount thereof, or for replacement, transfer or exchange, such Series 2008 Bond shall be cancelled and destroyed by the Registrar, and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

**Section 7. Series 2008 Bond Mutilated, Destroyed, Stolen or Lost.** In case the Series 2008 Bond shall be mutilated, or be destroyed, stolen or lost, upon the Registered Owner furnishing the Registrar satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur, the Registrar shall issue and deliver a new Series 2008 Bond of like tenor as the Series 2008 Bond so mutilated, destroyed, stolen or lost, in lieu of or substitution for the Series 2008 Bond, if any, destroyed, stolen or lost, or in exchange and substitution for such mutilated Series 2008 Bond, upon surrender of such mutilated Series 2008 Bond, if any, to the Registrar and the cancellation thereof; provided however, if the Series 2008 Bond shall have matured or be about to mature, instead of issuing a substitute Series 2008 Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Series 2008 Bond be lost, stolen or destroyed, without surrender thereof. Any Series 2008 Bond surrendered under the terms of this Section 7 shall be cancelled by the Registrar.

Any such new Series 2008 Bond issued pursuant to this section shall constitute an original, additional contractual obligation on the part of the Issuer whether or not, as to the new Series 2008 Bond, the lost, stolen or destroyed Series 2008 Bond be at any time found by anyone, and such new Series 2008 Bond shall be entitled to equal and proportionate benefits and rights as to security for payment to the same extent as the Series 2008 Bond originally issued hereunder.

**Section 8. Form of Series 2008 Bond.** The Series 2008 Bond shall be in substantially the form of Exhibit A hereto, with such variations, omissions and insertions as may be necessary, desirable and authorized or permitted by this Loan Agreement and the Commitment.

**Section 9. Security for Series 2008 Bond; Series 2008 Bond not Debt of Issuer.** The payment of the principal of and interest on the Series 2008 Bond shall be secured forthwith solely by the Pledged Revenues. The principal of and interest on the Series 2008 Bond shall not constitute a general obligation or indebtedness of the Issuer, and the Registered Owner shall never have the right to or compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on the Series 2008 Bond. The Series 2008 Bond shall not be secured by, or constitute, a lien upon the Project or upon any property of or in the Issuer, but shall be secured solely by the Pledged Revenues in the manner provided herein. See Section 10.A. below for additional covenant regarding payment of Series 2008 Bond.

**Section 10. Covenants of the Issuer.** Until the principal of and interest on the Series 2008 Bond shall have been paid in full or until (a) there shall have been set apart a sum sufficient to pay when due the entire principal of and interest accrued and to accrue on the Series 2008 Bond to the Maturity Date, or (b) provision for payment of the Series 2008 Bond shall have been made in accordance with the provisions of this Loan Agreement, the Issuer covenants with the Registered Owner of the Series 2008 Bond as follows:

A. Permanent Financing. The Issuer does hereby separately covenant that if for any reason the Florida Department of Environmental Protection fails to provide permanent financing prior to the Maturity Date, the Issuer will use all reasonable efforts to take in a timely manner all necessary actions and adopt all necessary proceedings in order to obtain other temporary or permanent financing or other borrowing in order to repay the Series 2008 Bond or to repay the Series 2008 Bond from any other legally available Non-Ad Valorem Revenues of the Issuer on the Maturity Date.

The Issuer will give to the Bank prompt written notice, appropriately documented, of any modification, suspension, termination, annulment or other change in status of the commitment from the Florida Department of Environmental Protection for permanent financing.

B. Payments. The Issuer will punctually pay from the Pledged Revenues, or other revenues described in Section 10.A. hereof, all principal of and interest on the Series 2008 Bond when due, by wire transfer or other medium acceptable to the Issuer and the Bank.

C. Financial Statements. Not later than 210 days following the end of each fiscal year the Issuer will provide the Bank a copy of the Comprehensive Annual Financial Report of the Issuer.

D. Tax Compliance. Neither the Issuer, nor any third party over whom the Issuer has control, will make any use of the proceeds of the Series 2008 Bond or of the Project at any time during the term of the Series 2008 Bond which would cause the Series 2008 Bond (1) to be (a) a "private activity bond" within the meaning of Section 103(b)(1) of the Code or (b) an "arbitrage bond" within the meaning of Section 103(b)(2) of the Code or (2) not be a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Code. The Issuer covenants throughout the term of the Series 2008 Bond to comply with the requirements of the Code and the Regulations, as amended from time to time, and to take all actions necessary to maintain the exclusion from gross income for purposes of the Code of interest on the Series 2008 Bond and the status of the Series 2008 Bond as a "qualified tax-exempt obligation" to the same extent as on the date of issuance of the Series 2008 Bond.

E. Other Covenants. The Issuer shall comply with such additional covenants as may be required by the Bank pursuant to its Commitment and specified in Exhibit B attached hereto.

**Section 11. Representations and Warranties.** The Issuer represents and warrants to the Bank that:

A. Organization. The Issuer is a municipal corporation duly organized and existing under the laws of the State of Florida and eligible to issue obligations which qualify under Section 103(a) of the Code.

B. Authorization of Loan Agreement and Series 2008 Bond. The Issuer has the power and has taken all necessary action to authorize the execution and delivery of and the performance by the Issuer of its obligations under, this Loan Agreement and the Series 2008 Bond in accordance with their respective terms. This Loan Agreement and the Series 2008 Bond have been duly executed and delivered by the Issuer and are valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except to the extent that such enforcement may be limited by laws regarding bankruptcy, insolvency, reorganization or moratorium applicable to the Issuer or by general principles of equity whether applied by a court of law or equity.

C. No Conflict; No Litigation. The terms of the Series 2008 Bond and of this Loan Agreement do not conflict with or constitute a violation of the terms of any judgment, decree, indenture, loan agreement, debt instrument or other agreement to which the Issuer is a party or by which the Issuer is bound. There is no litigation pending, or, to the best knowledge of the Issuer, threatened, which seeks to restrain or enjoin the execution and delivery of the Series 2008 Bond or this Loan Agreement, the pledging by the Issuer of the Pledged Revenues, or the performance by the Issuer of its obligations hereunder, or the collection and application of the Pledged Revenues.

D. Financial Statements. The financial statements of the Issuer for the Fiscal Year ended September 30, 2007, previously provided to the Bank have been prepared in accordance with generally accepted accounting principles and present fairly the financial condition of the Issuer as of such date and the results of its operations for the period then ended. Since such date, there has been no material adverse change in the financial condition, revenues, properties or operations of the Issuer.

E. Compliance with Laws and Regulations. The Issuer is in substantial compliance with all environmental laws and regulations related to the Project and the Project site.

**Section 12. Conditions Precedent.** The obligation of the Bank to make the Loan is subject to the satisfaction of each of the following conditions precedent on or before the Disbursement Date:

A. Action. The Bank shall have received a copy of the Resolution certified as complete and correct as of the closing date, together with an executed Loan Agreement, the executed Series 2008 Bond, and the executed customary closing certificates.

B. Incumbency of Officers. The Bank shall have received an incumbency certificate of the Issuer in respect of each of the officers who is authorized to sign this Loan Agreement and the related financing documents on behalf of the Issuer.

C. Opinion of Issuer's Counsel. The Bank shall have received a written opinion of Issuer's Counsel addressing matters relating to (1) the status of the Issuer as a municipal corporation pursuant to the laws of the State; (2) the due adoption of the Resolution; (3) the due authorization, execution and enforceability of this Loan Agreement and the Series 2008 Bond; (4) the absence of litigation against the Issuer seeking to prohibit or enjoin the issuance of the Series 2008 Bond or contesting the Issuer's authorization of the issuance or contesting the tax exempt status of the Series 2008 Bond; (5) all approvals, consents, authorizations and orders of any governmental authority or agency having jurisdiction in any matter which would constitute a condition precedent to the performance by the Issuer of its obligations hereunder

and under the Resolution have been obtained and are in full force and effect; and that (6) the Series 2008 Bond will not conflict with, or constitute a breach of or default under, any law, administrative regulation, consent decree, ordinance, resolution or any agreement, in form and substance satisfactory to the Bank.

D. Opinion of Bond Counsel. The Bank shall have received an approving opinion of Bond Counsel or, alternatively, a letter from Bond Counsel authorizing the Bank to rely on the approving opinion of Bond Counsel delivered to the Issuer in respect to the Series 2008 Bond to the same extent as if such opinion were addressed to the Bank. The opinion in form and substance satisfactory to the Bank, shall, at a minimum, address the tax-exempt status of interest on the Series 2008 Bond under the provisions of Section 103 of the Code and the status of the Series 2008 Bond under Section 265(b)(3)(B) of the Code.

E. Representations and Warranties; No Default. The representations and warranties made by the Issuer herein shall be true and correct in all material respects on and as of the Disbursement Date, as if made on and as of such date; no Default shall have occurred and be continuing as of the Disbursement Date or will result from the consummation of the Loan; and the Bank shall have received a certificate from the Issuer to the foregoing effect.

F. Other Documents. The Bank shall have received such other documents, certificates and opinions as the Bank or its counsel shall have reasonably requested.

**Section 13. Tax Compliance.** Neither the Issuer, nor any third party over which the Issuer has control, will make any use of the proceeds of the Series 2008 Bond at any time during the term hereof which would cause the Series 2008 Bond to be a "private activity bond" within the meaning of Section 103(b)(1) of the Code or an "arbitrage bond" within the meaning of Section 103(b)(2) of the Code. The Issuer covenants throughout the term of the Series 2008 Bond, to comply with the requirements of the Code and the Regulations, as amended from time to time.

**Section 14. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered, delivered by telecopier, mailed by registered or certified mail, postage prepaid, or delivered by courier service to the parties at the following addresses:

Issuer: City of Marathon, Florida  
Attention: City Clerk  
9805 Overseas Highway  
Marathon, Florida 33050  
FX: (305) 743-3667

With a copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.  
150 W. Flagler Street, Suite 2500  
Miami, Florida 33130  
Attention: John Herrin, Esq.

Bank: Branch Banking and Trust Company  
5130 Parkway Plaza Boulevard, Building #9  
Charlotte, North Carolina 28217  
FX: (704) 954-1799



Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Communication via telecopier shall be confirmed by delivery by hand, mail, or courier, as specified above, of an original promptly after such communication by telecopier.

**Section 15. Events of Default Defined.** The following shall be “Events of Default under this Loan Agreement, and the terms “Default” and “Events of Default” shall mean (except where the context clearly indicates otherwise), any one or more of the following events:

A. failure by the Issuer to make any payment of principal of or interest on the Series 2008 Bond within three (3) days of the applicable Payment Date or the Maturity Date.

B. failure by the Issuer to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Loan Agreement for a period of fifteen (15) days after written notice of such failure shall have been delivered to the Issuer by the Bank, unless the Bank shall agree in writing to an extension of such time prior to its expiration;

C. the making of any warranty, representation or other statement by the Issuer or by an officer or agent of the Issuer in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement which is false or misleading in any material adverse respect;

D. the filing of a petition against the Issuer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, if an order for relief is entered under such petition or such petition is not dismissed within sixty (60) days of such filing;

E. the filing by the Issuer of a voluntary petition in bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or the consent by the Issuer to the filing of any petition against it under such law; or

F. the admission by the Issuer of its insolvency or bankruptcy or its inability to pay its debts as they become due or that it is generally not paying its debts as such debts become due, or the Issuer’s becoming insolvent or bankrupt or making an assignment for the benefit of creditors, or the appointment by court order of a custodian (including without limitation a receiver, liquidator or trustee) of the Issuer or any of its property taking possession thereof and such order remaining in effect or such possession continuing for more than sixty (60) days.

**Section 16. Remedies.** Upon the occurrence and continuing of any Event of Default, the Bank may declare the indebtedness evidenced by the Series 2008 Bond to be forthwith due and payable, whereupon the Series 2008 Bond shall become forthwith due and payable, both as to principal and interest, without presentment, demand, protest or any other notice or grace period of any kind, all of which are hereby expressly waived, anything contained herein or in the Series 2008 Bond to the contrary notwithstanding. The Bank may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State of Florida or of the United States of America, or granted and contained in this Loan Agreement, and to enforce and compel the performance of all duties required by this Loan Agreement or by any applicable laws to be performed by the Issuer or by any officer thereof, and may take all steps to enforce this Loan Agreement to the full extent permitted or authorized by the laws of the State of Florida or the United States of America.

**Section 17. No Recourse.** No recourse shall be had for the payment of the principal of and interest on the Series 2008 Bond or for any claim based on the Series 2008 Bond or on this Loan Agreement, against any present or former member officer or elected or appointed official of the Issuer or any person executing the Series 2008 Bond.

**Section 18. Payments Due on Saturdays, Sundays and Holidays.** In any case where the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Loan Agreement, shall be other than a Business Day, then such payment or performance shall be made on the succeeding Business Day with the same force and effect as if done on the nominal date provided in this Loan Agreement, provided that interest on any monetary obligation hereunder shall accrue at the applicable rate to and including the date of such payment.

**Section 19. Final Agreement; Amendments, Changes and Modifications.** Each party hereto represents and agrees that (A) this Loan Agreement represents the final agreement between the parties with respect to the Loan, (B) there are no unwritten oral agreements between the parties with respect to the Loan, and (C) the terms of this Loan Agreement may not be contradicted by evidence of any prior, contemporaneous, or subsequent oral agreements or understandings of the parties. This Loan Agreement may be amended only in writing signed by both parties hereto. This Loan Agreement may not be assigned by either party hereto without the written consent of the other party.

**Section 20. Binding Effect; Discharge.** To the extent provided herein, this Loan Agreement shall be binding upon the Issuer and the Bank and shall inure to the benefit of the Issuer and the Bank and their respective successors and assigns. This Loan Agreement shall be discharged and neither the Issuer nor the Bank shall have any further obligations hereunder or under the Series 2008 Bond when the Issuer shall have paid the principal of and interest on the Series 2008 Bond in full and shall have paid in full all other amounts, if any, due under the Series 2008 Bond or this Loan Agreement.

**Section 21. Construction; Severability.** The provisions of this Loan Agreement shall be construed so as to give effect to the intent of the parties hereto, as expressed in the preambles, and to all of the provisions of this Loan Agreement and of the Series 2008 Bond. In the event any provision of this Loan Agreement or the Series 2008 Bond shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render ineffective or unenforceable any other provisions hereof or thereof.

**Section 22. Execution in Counterparts.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 23. Applicable Law.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

IN WITNESS WHEREOF, the parties hereto have duly executed this Loan Agreement as of the date first above written.

(SEAL)

CITY OF MARATHON, FLORIDA

By: Edmund P. Worthy  
Mayor

ATTEST:

By: Diane Clavier  
Clerk

BRANCH BANKING AND TRUST  
COMPANY

By: Michael C. Smith  
Michael C. Smith  
Banking Officer

**EXHIBIT A**  
**FORM OF BOND**

No. R-1

\$10,000,000

STATE OF FLORIDA  
COUNTY OF MONROE  
CITY OF MARATHON  
WASTEWATER SYSTEM REVENUE BOND, SERIES 2008

<u>RATE OF INTEREST</u>	<u>MATURITY DATE</u>	<u>DATE OF ISSUE</u>
3.31%	January 1, 2012	September 25, 2008

REGISTERED OWNER:      Branch Banking and Trust Company

PRINCIPAL AMOUNT:      Ten Million Dollars

KNOW ALL MEN BY THESE PRESENTS, that the City of Marathon, Florida (the "Issuer"), for value received, hereby promises to pay to the Registered Owner designated above, or registered assigns, solely from the special funds hereinafter mentioned, on the Maturity Date specified above, the above Principal Amount, and to pay solely from such funds interest thereon from the date of this Bond or from the most recent date to which interest has been paid, whichever is applicable, until payment of such Principal Amount, interest at the Rate of Interest shown above, such interest being payable semi-annually on each January 1 and July 1 (an "Interest Payment Date") commencing January 1, 2009, with all unpaid interest being due on the Maturity Date, by wire transfer in accordance with written instructions delivered by the Registered Owner to the Issuer or by such other medium acceptable to the Issuer and to such Registered Owner. The principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. Interest due hereon shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

This Bond is issued to finance the costs of the acquisition and construction of the Project, under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Florida Statutes, as amended, the Charter of the City of Marathon, Florida, and other applicable provisions of law, and Resolution No. 2008-138, duly adopted by the Issuer on September 23, 2008 (the "Resolution"), and pursuant to a Loan Agreement between the Issuer and Branch Banking and Trust Company, dated as of September 25, 2008 (the "Loan Agreement"), to which reference should be made to ascertain those terms and conditions.

This Bond is payable from and secured solely by the Pledged Revenues, as defined and described in the Loan Agreement, all in the manner provided in, and subject to the terms and conditions of the Resolution and the Loan Agreement. If the Pledged Revenues are not

available at maturity, then the Issuer shall use all reasonable efforts to obtain other permanent financing or pay the Bonds from Non-Ad Valorem Revenues of the Issuer.

The principal of and interest on this Bond do not constitute a general obligation or indebtedness of the Issuer, and the Registered Owner shall never have the right to require or compel the levy of taxes on any property of or in the Issuer for the payment of the principal of and interest on this Bond. The principal of and interest on this Bond are not secured by a lien upon the Project, or upon any property of or in the Issuer, but are secured solely by the Pledged Revenues in the manner provided in the Resolution and in the Loan Agreement. Reference is made to the Loan Agreement for the provisions relating to the security for payment of this Bond and the duties and obligations of the Issuer hereunder. If the Pledged Revenues are not available at maturity, then the Issuer shall use all reasonable efforts to obtain other permanent financing or pay the Bonds from Non-Ad Valorem Revenues of the Issuer.

This Bond is subject to redemption in part on any Interest Payment Date or in whole at any time, at the price of the principal amount being redeemed plus accrued interest to the date of redemption without prepayment penalty. Notice of redemption shall be given to the Bank fifteen (15) days prior to such redemption.

If a Determination of Taxability shall occur, the Bond will bear interest from the earliest effective date on which such Determination of Taxability is deemed to have occurred at a rate of interest equal to the Prime Rate plus 2%. "Prime Rate" means the interest rate announced by Branch Banking and Trust Company from time to time as its prime rate. Any change in the Prime Rate shall be effective as of the date such change is announced by Branch Banking and Trust Company.

"Determination of Taxability" shall mean the circumstance that shall have occurred if interest paid or payable on the tax-exempt Bond becomes includable for federal income tax purposes in the gross income of the tax-exempt owner as a consequence of any act, omission or event whatsoever, and regardless of whether the same was within or beyond the control of the Issuer. A Determination of Taxability will be deemed to have occurred upon (a) the receipt by the Issuer or an owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency which holds that any interest payable on the tax-exempt Bond is includable in the gross income of the owner for federal income tax purposes; or (b) the issuance of any public or private ruling of the Internal Revenue Service that any interest payable on the tax-exempt Bond is includable in the gross income of an owner for federal income tax purposes; or (c) receipt by the Issuer or the owner of the opinion of Bond Counsel to the effect that any interest on the tax-exempt Bond has become includable in the gross income of the owner for federal income tax purposes. For all purposes of this definition, a Determination of Taxability will be deemed to occur on the date as of which the interest on the tax-exempt Bond is deemed includable in the gross income of the owner. A Determination of Taxability shall not occur in the event such interest is taken into account in determining adjusted current earnings for the purpose of the alternative minimum tax imposed on corporations.

The Registered Owner may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State of Florida, of the United States of America, or granted and contained in the Loan Agreement, and to enforce and compel the performance of all duties required by the Loan Agreement or by any applicable laws to be performed by the Issuer or by any officer thereof, and may take all steps to enforce the Loan

Agreement to the full extent permitted or authorized by the laws of the State of Florida or the United States of America.

This Bond may be transferred or assigned by the Registered Owner without the prior written consent of the Issuer provided that (1) the Issuer is given notice of such transfer not later than ten (10) days prior to the next Interest Payment Date on the Bonds and (2) the transferee provides to the Issuer an investment letter in form and substance materially the same as the letter provided by the Registered Owner to the Issuer upon the original issuance hereof.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of Florida to be performed, to exist and to happen precedent to and in the issuance of this Bond, have been performed, exist and have happened in regular and due form and time as so required.

IN WITNESS WHEREOF, the City of Marathon, Florida has caused this Bond to be executed by the Mayor, and attested by the Clerk, either manually or with their facsimile signatures, and its seal or a facsimile thereof to be affixed, impressed, imprinted, lithographed or reproduced hereon, all as of the Date of Issue above.

CITY OF MARATHON, FLORIDA

(SEAL)

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
Clerk

**EXHIBIT B**

**LETTER OF COMMITMENT FROM  
BRANCH BANKING AND TRUST COMPANY**



**EXHIBIT C**

**LETTER OF COMMITMENT FROM  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**EXHIBIT A**  
**FORM OF BOND**

No. R-1

\$10,000,000

STATE OF FLORIDA  
COUNTY OF MONROE  
CITY OF MARATHON, FLORIDA  
WASTEWATER SYSTEM REVENUE BOND, SERIES 2008

<u>RATE OF INTEREST</u>	<u>MATURITY DATE</u>	<u>DATE OF ISSUE</u>
3.31%	January 1, 2012	September 29, 2008

REGISTERED OWNER:      Branch Banking and Trust Company

PRINCIPAL AMOUNT:      Ten Million Dollars

KNOW ALL MEN BY THESE PRESENTS, that the City of Marathon, Florida (the "Issuer"), for value received, hereby promises to pay to the Registered Owner designated above, or registered assigns, solely from the special funds hereinafter mentioned, on the Maturity Date specified above, the above Principal Amount, and to pay solely from such funds interest thereon from the date of this Bond or from the most recent date to which interest has been paid, whichever is applicable, until payment of such Principal Amount, interest at the Rate of Interest shown above, such interest being payable semi-annually on each January 1 and July 1 (an "Interest Payment Date") commencing January 1, 2009, with all unpaid interest being due on the Maturity Date, by wire transfer in accordance with written instructions delivered by the Registered Owner to the Issuer or by such other medium acceptable to the Issuer and to such Registered Owner. The principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. Interest due hereon shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

This Bond is issued to finance the costs of the acquisition and construction of the Project, under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Florida Statutes, as amended, the Charter of the City of Marathon, Florida, and other applicable provisions of law, and Resolution No. 2008-138, duly adopted by the Issuer on September 9, 2008 (the "Resolution"), and pursuant to a Loan Agreement between the Issuer and Branch Banking and Trust Company, dated September 29, 2008 (the "Loan Agreement"), to which reference should be made to ascertain those terms and conditions.

This Bond is payable from and secured solely by the Pledged Revenues, as defined and described in the Loan Agreement, all in the manner provided in, and subject to the terms and conditions of the Resolution and the Loan Agreement. If the Pledged Revenues are not

available at maturity, then the Issuer shall use all reasonable efforts to obtain other permanent financing or pay the Bonds from Non-Ad Valorem Revenues of the Issuer.

The principal of and interest on this Bond do not constitute a general obligation or indebtedness of the Issuer, and the Registered Owner shall never have the right to require or compel the levy of taxes on any property of or in the Issuer for the payment of the principal of and interest on this Bond. The principal of and interest on this Bond are not secured by a lien upon the Project, or upon any property of or in the Issuer, but are secured solely by the Pledged Revenues in the manner provided in the Resolution and in the Loan Agreement. Reference is made to the Loan Agreement for the provisions relating to the security for payment of this Bond and the duties and obligations of the Issuer hereunder. If the Pledged Revenues are not available at maturity, then the Issuer shall use all reasonable efforts to obtain other permanent financing or pay the Bonds from Non-Ad Valorem Revenues of the Issuer.

This Bond is subject to redemption in part on any Interest Payment Date or in whole at any time, at the price of the principal amount being redeemed plus accrued interest to the date of redemption without prepayment penalty. Notice of redemption shall be given to the Bank fifteen (15) days prior to such redemption.

If a Determination of Taxability shall occur, the Bond will bear interest from the earliest effective date on which such Determination of Taxability is deemed to have occurred at a rate of interest equal to the Prime Rate plus 2%. "Prime Rate" means the interest rate announced by Branch Banking and Trust Company from time to time as its prime rate. Any change in the Prime Rate shall be effective as of the date such change is announced by Branch Banking and Trust Company.

"Determination of Taxability" shall mean the circumstance that shall have occurred if interest paid or payable on the tax-exempt Bond becomes includable for federal income tax purposes in the gross income of the tax-exempt owner as a consequence of any act, omission or event whatsoever, and regardless of whether the same was within or beyond the control of the Issuer. A Determination of Taxability will be deemed to have occurred upon (a) the receipt by the Issuer or an owner of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency which holds that any interest payable on the tax-exempt Bond is includable in the gross income of the owner for federal income tax purposes; or (b) the issuance of any public or private ruling of the Internal Revenue Service that any interest payable on the tax-exempt Bond is includable in the gross income of an owner for federal income tax purposes; or (c) receipt by the Issuer or the owner of the opinion of Bond Counsel to the effect that any interest on the tax-exempt Bond has become includable in the gross income of the owner for federal income tax purposes. For all purposes of this definition, a Determination of Taxability will be deemed to occur on the date as of which the interest on the tax-exempt Bond is deemed includable in the gross income of the owner. A Determination of Taxability shall not occur in the event such interest is taken into account in determining adjusted current earnings for the purpose of the alternative minimum tax imposed on corporations.

The Registered Owner may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State of Florida, of the United States of America, or granted and contained in the Loan Agreement, and to enforce and compel the performance of all duties required by the Loan Agreement or by any applicable laws to be performed by the Issuer or by any officer thereof, and may take all steps to enforce the Loan

Agreement to the full extent permitted or authorized by the laws of the State of Florida or the United States of America.

This Bond may be transferred or assigned by the Registered Owner without the prior written consent of the Issuer provided that (1) the Issuer is given notice of such transfer not later than ten (10) days prior to the next Interest Payment Date on the Bonds and (2) the transferee provides to the Issuer an investment letter in form and substance materially the same as the letter provided by the Registered Owner to the Issuer upon the original issuance hereof.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of Florida to be performed, to exist and to happen precedent to and in the issuance of this Bond, have been performed, exist and have happened in regular and due form and time as so required.

IN WITNESS WHEREOF, the City of Marathon, Florida has caused this Bond to be executed by the Mayor, and attested by the Clerk, either manually or with their facsimile signatures, and its seal or a facsimile thereof to be affixed, impressed, imprinted, lithographed or reproduced hereon, all as of the Date of Issue above.

CITY OF MARATHON, FLORIDA

(SEAL)

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
Clerk

**EXHIBIT B**

**LETTER OF COMMITMENT FROM  
BRANCH BANKING AND TRUST COMPANY**

**EXHIBIT C**

**LETTER OF COMMITMENT FROM  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

EXHIBIT II

ESTIMATED ISSUANCE EXPENSES

Bond Counsel	\$10,000.00
Financial Advisor	\$7,500.00
Bank Counsel	\$2,500.00
Transcript Preparation	\$500.00
Bank Fee	\$800.00