

Sponsored by: Burnett

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2008-178**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AMENDMENT #3 TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) BUREAU OF WATER FACILITIES FUNDING – FLORIDA WATER POLLUTION CONTROL, FINANCING CORPORATION LOAN WW63702P FOR ADDITIONAL FINANCING IN THE AMOUNT OF \$2,562,000; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon (The City) entered into a Clean Water State Revolving Fund Loan Agreement WW63702P in the amount of \$8,746,211, excluding capitalized interest; and

**WHEREAS**, the City is entitled to additional financing of \$2,562,000, excluding capitalized interest.

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

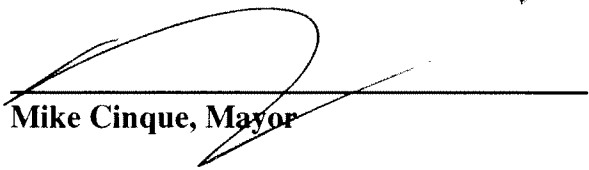
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves Amendment Three to the Florida Department of Environmental Protection Bureau of water facilities funding loan, a copy of which is attached hereto as Exhibit "A", for additional financing in the amount of \$2,562,000.00.

**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 25<sup>th</sup> day of November, 2008.

**THE CITY OF MARATHON, FLORIDA**

  
Mike Cinque, Mayor

AYES: Ramsay, Snead, Vasil, Worthington, Cinque  
NOES: None  
ABSENT: None  
ABSTAIN: None

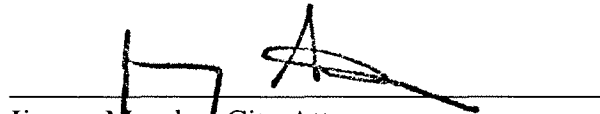
**ATTEST:**



Diane Clavier, City Clerk

(City Seal)

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



Jimmy Morales, City Attorney

**AMENDMENT 3 TO LOAN AGREEMENT WW63702P  
CITY OF MARATHON**

This amendment is executed by the FLORIDA WATER POLLUTION CONTROL FINANCING CORPORATION (the "Corporation") and the CITY OF MARATHON, FLORIDA, (the "Local Borrower") existing as a local governmental agency under the laws of the State of Florida.

WITNESSETH:

WHEREAS, the Corporation and the Local Borrower entered into a Clean Water State Revolving Fund Loan Agreement, Number WW63702P, as amended, authorizing a Loan amount of \$8,746,211, excluding Capitalized Interest; and

WHEREAS, the Local Borrower is entitled to additional financing of \$2,562,000, excluding Capitalized Interest; and

WHEREAS, a Financing Rate must be established for the additional financing amount awarded in this amendment; and

WHEREAS, an estimated Loan Service Fee must be assessed for the additional financing; and

WHEREAS, the Semiannual Loan Payment amount needs revision to reflect adjustment in the Loan amount; and

WHEREAS, the Project costs need adjustment to reflect revised estimates; and

WHEREAS, it has been determined that this Project is a Capitalization Grant as defined in Chapter 62-503, Florida Administrative Code; and

WHEREAS, the definition of Project needs revision to include another contract.

NOW, THEREFORE, the parties hereto agree as follows:

1. Subsection 1.01(18) of the Agreement, as amended, is deleted and replaced as follows:

"Project" shall mean the works financed by this Loan and shall consist of furnishing all labor, materials, and equipment to construct the collection, transmission, treatment, and reuse facilities in accordance with the plans and specifications accepted by the Department for the following contracts:

- (a) "Sombrero Beach Sewer Project"; and
- (b) "Service Area 4 and 6 Treatment and Disposal" (only Service Area 4 is covered under this Agreement); and
- (c) "Service Area 4 and 6 Collection" (only Service Area 4 is covered under this Agreement).

The Project is in agreement with the "City of Marathon – Planning Documents for State Revolving Fund Loan, Marathon Regional Wastewater Project" Facilities Plan, dated July 2005 and revised January 2006. A Florida Categorical Exclusion Notification was published on February 17, 2006 and no adverse comments were received. This Project is a Capitalization Grant Project as defined in Chapter 62-503, Florida Administrative Code.

2. Subsections 2.04(1), (2)(d) and (3)(a)(i) are hereby deleted and replaced as follows:

(1) The financial assistance authorized pursuant to this Loan Agreement consists of the following:

Federal Resources, Including State Match, 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
CS120001-090	EPA	66.458	Capitalization Grants for State Revolving Funds	\$11,308,211	140131

(2) Audits.

(d) The Local Borrower may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://www.cfda.gov/>.

(3) Report Submission.

(a) Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Subsection 2.03(2) of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Project Sponsor directly to each of the following:

(i) The Department at each of the following addresses:

Robert E. Holmden, P.E., Chief  
Bureau of Water Facilities Funding  
Florida Department of Environmental Protection  
2600 Blair Stone Road, MS 3505  
Tallahassee, Florida 32399-2400

Joe Aita, Audit Director  
Office of the Inspector General  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard, MS 41  
Tallahassee, Florida 32399-3123

3. The following items are added to Section 9.01 as follows:

(4) Certification by the Authorized Representative that affirmative steps were taken to encourage Minority and Women's Business Enterprises participation in Project construction.

(5) Current certifications for Minority and Women's Business Enterprises participating in the contract. If the goals as stated in the plans and specifications are not met, documentation of actions taken shall be submitted.

4. Additional financing in the amount of \$2,562,000, excluding Capitalized Interest, is hereby awarded to the Local Borrower.

5. A Financing Rate of 2.54 percent per annum is established for the additional financing amount awarded in this amendment. Individually, the interest rate is 2.54 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum. However, if this amendment is not executed by

the Local Borrower and returned to the Department before January 1, 2009, the Financing Rate may be adjusted.

6. The estimated principal amount of the Loan is hereby revised to \$11,577,411, which consists of \$11,308,211 authorized for disbursement to the Local Borrower and \$269,200 of Capitalized Interest. This total consists of the following:
  - (a) Original Agreement of \$1,233,211, including \$1,188,811 authorized for disbursement to the Local Borrower and \$44,400 of Capitalized Interest, at a Financing Rate of 2.46 percent per annum (the interest rate is 2.46 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum); and
  - (b) Amendment 1 of \$2,639,800, including \$2,557,400 authorized for disbursement to the Local Borrower and \$82,400 of Capitalized Interest, at a Financing Rate of 2.36 percent per annum (the interest rate is 2.36 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum); and
  - (c) Amendment 2 of \$5,122,200, including \$5,000,000 authorized for disbursement to the Local Borrower and \$122,200 of Capitalized Interest, at a Financing Rate of 2.25 percent per annum (the interest rate is 2.25 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum); and
  - (d) Amendment 3 of \$2,582,200, including \$2,562,000 authorized for disbursement to the Local Borrower and \$20,200 of Capitalized Interest, at a Financing Rate of 2.54 percent per annum (the interest rate is 2.54 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum).
7. An additional Loan Service Fee in the amount of \$51,240, for a total of \$226,164, is projected based on the total Loan amount being disbursed. The fee represents two percent of the Loan amount excluding Capitalized Interest; that is, two percent of \$11,308,211.
8. The Semiannual Loan Payment amount is hereby revised and shall be in the amount of \$371,982. Such payments shall be paid to, and must be received by, the Trustee beginning on February 15, 2010 and semiannually thereafter on August 15 and February 15 of each year until all amounts due hereunder have been fully paid. Until this Agreement is further amended, each Semiannual Loan Payment will be proportionally applied, after deduction of the Loan Service Fee is complete, toward repayment of the amounts owed on each incremental Loan amount at the date such payment is due.

The Semiannual Loan Payment amount is based on the total amount owed of \$11,803,575, which consists of Loan principal of \$11,577,411 plus the estimated Loan Service Fee of \$226,164.

9. The Local Borrower, the Corporation and the Department acknowledge that the actual Project costs have not been determined as of the effective date of this agreement. Project cost adjustments may be made as a result of Project changes agreed upon by the Department. Capitalized Interest will be recalculated based on actual dates and amounts of Loan disbursements. If the Local Borrower receives other governmental financial assistance for this Project, the costs funded by such other governmental assistance will not be financed by this Loan. The Department shall establish the final Project costs after its final inspection of the Project records. Changes in Project costs may also occur as a result of the Local Borrower's Project audit or a Department audit.

Funds disbursed in accordance with Section 4.08 of this Agreement shall be disbursed in the order in which they have been obligated without respect to budgetary line item estimates. All disbursements

shall be made from the original Loan amount until that amount has been disbursed; the Financing Rate established for the original Loan amount shall apply to such disbursements for the purpose of determining the associated Capitalized Interest and repayment amount. The Financing Rate established for any additional increment of Loan financing shall be used to determine the Capitalized Interest and repayment amount associated with the funds disbursed from that increment.

The estimated Project costs are revised as follows:

CATEGORY	COST(\$)	AUTHORIZED LOAN AMOUNT(\$) TO DATE
Allowance costs	1,188,811	<i>Line items</i>
Construction and Demolition	12,000,000	<i>may vary</i>
Contingencies	1,200,000	<i>based on Actual</i>
Technical Services After Bid Opening	1,062,713	<i>Disbursements</i>
SUBTOTAL (Disbursable Amount)	15,451,524	11,308,211
Capitalized Interest	269,200	269,200
TOTAL (Loan Principal Amount)	15,720,724	11,577,411

10. All other terms and provisions of the Loan Agreement shall remain in effect.

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This Amendment 3 to Loan Agreement WW63702P shall be executed in three or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Corporation has caused this amendment to the Loan Agreement to be executed on its behalf by its Chief Executive Officer and the Local Borrower has caused this amendment to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this amendment shall be as set forth below by the Chief Executive Officer of the Corporation.

for

FLORIDA WATER POLLUTION CONTROL FINANCING CORPORATION

  
*[Signature]*  
Chief Executive Officer

12/10/08  
Date

for

CITY OF MARATHON

*Clyde Burnett*  
City Manager

I attest that this amendment complies with Section 2.03 of the Agreement and as to form and correctness.

Attest

*Diane Clavier*  
City Clerk

*[Signature]*  
City Attorney

SEAL

APPROVED AND ACCEPTED BY THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION.

*[Signature]*  
Deputy Director  
Division of Water Resource Management