

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-119**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING RESOLUTION 2012-108 THAT APPROVED A FOURTH AMENDMENT TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF WATER FACILITIES FUNDING WASTEWATER/STORMWATER INFRASTRUCTURE PROJECTS, FINANCING CORPORATION LOAN WW637060 TO INCREASE THE LOAN AMOUNT BY \$4,622,712.00; TO ESTABLISH PLEDGED REVENUES; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF THE FOURTH AMENDMENT; AUTHORIZING THE MANAGER TO EXECUTE THE FOURTH AMENDMENT ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on September 25, 2012, the City Council of the City of Marathon (the “City”) adopted Resolution 2012-108, approving Amendment No. 4 to Clean Water State Revolving Fund Construction Loan Agreement No. WW637060 (the “Loan”) between the City and the State of Florida Department of Environmental Protection Clean Water State Revolving Fund in the amount of \$4,622,712.00 (the “Loan Amendment No. 4”) for wastewater/stormwater infrastructure projects, and authorizing the City Manager and City Attorney to finalize the terms of the Loan Amendment No. 4; and

WHEREAS, the State of Florida Department of Environmental Protection has requested that the City amend Resolution 2012-108 to establish the pledged revenues that will be used to re-pay the Loan and specify the City’s representative that is authorized to execute Loan Amendment No. 4 on behalf of the City.

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. Section 2 of Resolution 2012-108 is hereby deleted in its entirety and replaced to read as follows:

Loan Amendment No. 4 attached hereto as Exhibit “A” is hereby approved. The City Manager is hereby designated as the authorized representative to provide the assurances and commitments required by the Loan Amendment No. 4 application, and execute Loan Amendment No. 4, which will become a binding obligation in accordance with its terms when signed by both parties. Loan Amendment No. 4 must be reviewed by the City Attorney as to form and legality. The City Manager is

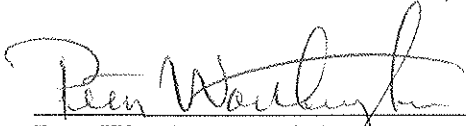
authorized to represent the City in carrying out the City's responsibilities under the Loan Amendment No. 4. The City Manager is authorized to delegate responsibility to appropriate City staff to carry out technical, financial, and administrative activities associated with the Loan Amendment No. 4. The revenues pledged to repay the State Revolving Fund Loan are Stormwater Utility Service Assessments, Wastewater Utility Service Assessments, Capital Infrastructure Funds, and Gross Revenues derived yearly from the operation of the Stormwater and Wastewater Utilities.

In all other respects, Resolution 2012-108, and attachments relative thereto, shall remain unchanged and in full force and effect.

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 9th DAY OF OCTOBER, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

**AMENDMENT 4 TO LOAN AGREEMENT WW637060
CITY OF MARATHON**

This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and the CITY OF MARATHON, FLORIDA, (the "Local Government") existing as a local governmental agency under the laws of the State of Florida.

WITNESSETH:

WHEREAS, the Department and the Local Government entered into a Clean Water State Revolving Fund Loan Agreement, Number WW637060, as amended, authorizing a Loan amount of \$16,918,808, excluding Capitalized Interest; and

WHEREAS, the Local Government is entitled to additional financing of \$4,622,712, excluding Capitalized Interest; and

WHEREAS, revised provisions for audit and monitoring are needed; and

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

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

WHEREAS, the Semiannual Loan Payment amount needs revision to reflect an adjustment in the Loan amount.

NOW, THEREFORE, the parties hereto agree as follows:

1. Subsections 2.03(1) and (3)(a)(i) of the Agreement, as amended, 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
CS120001-120	EPA	66.458	Capitalization Grants for State Revolving Funds	\$21,541,520	140131

(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 Local Government directly to each of the following:

(i) The Department at the following address:

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

2. Additional financing in the amount of \$4,622,712, excluding Capitalized Interest, is hereby awarded to the Local Government.

3. A Financing Rate of 2.08 percent per annum is established for the additional financing amount awarded in this amendment. Individually, the interest rate is 2.08 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum. However, if this amendment is not executed by the Local Government and returned to the Department before October 1, 2012, the Financing Rate may be adjusted.

4. The estimated principal amount of the Loan is hereby revised to \$21,857,422, which consists of \$21,541,520 authorized for disbursement to the Local Government and \$315,902 of Capitalized Interest. This total consists of the following:

(a) Original Agreement of \$2,058,028, including \$1,918,808 authorized for disbursement to the Local Government and \$139,220 of Capitalized Interest, at a Financing Rate of 2.37 percent per annum (the interest rate is 2.37 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum); and

(b) Amendment 2 of \$5,070,093, including \$5,000,000 authorized for disbursement to the Local Government and \$70,093 of Capitalized Interest, at a Financing Rate of 2.73 percent per annum (the interest rate is 2.73 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum); and

(c) Amendment 3 of \$10,106,589, including \$10,000,000 authorized for disbursement to the Local Government and \$106,589 of Capitalized Interest, at a Financing Rate of 2.51 percent per annum (the interest rate is 2.51 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum); and

(d) Amendment 4 of \$4,622,712 authorized for disbursement to the Local Government, at a Financing Rate of 2.08 percent per annum (the interest rate is 2.08 percent per annum and the Grant Allocation Assessment rate is 0 percent per annum).

5. An additional Loan Service Fee in the amount of the amount of \$92,454, for a total of \$430,830, is hereby estimated. The fee represents two percent of the Loan amount excluding Capitalized Interest, that is, two percent of \$21,541,520.

6. The Semiannual Loan Payment amount is hereby revised and shall be in the amount of \$708,708. Such payments shall be paid to, and must be received by, the Department beginning on March 15, 2013 and semiannually thereafter on September 15 and March 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 toward repayment of the amounts owed on each incremental Loan amount at the date such payment is due.

7. The Local Government 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 Government 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 Government'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.

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The estimated Project costs are revised as follows:

CATEGORY	COST(\$)
Allowance costs	2,148,710
Construction and Demolition	27,272,729
Contingencies	1,363,636
Technical Services After Bid Opening	1,715,147
Less funding in SW637070	(519,195)
Less other funds	(10,439,507)
SUBTOTAL (Disbursable Amount)	21,541,520
Capitalized Interest	315,902
TOTAL (Loan Principal Amount)	21,857,422

8. Section 10.08 of the Agreement, as amended, is deleted and replaced as follows:

Prior to any funds being released, the Local Government shall submit a certified copy of the Resolution which authorizes the amendment, establishes the Pledged Revenues, and designates an Authorized Representative for executing the Loan Agreement.

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


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This Amendment 4 to Loan Agreement WW637060 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 Department has caused this Agreement to be executed on its behalf by the Deputy Division Director and the Local Government has caused this Agreement to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this Agreement shall be as set forth below by the Deputy Director.

for

CITY OF MARATHON



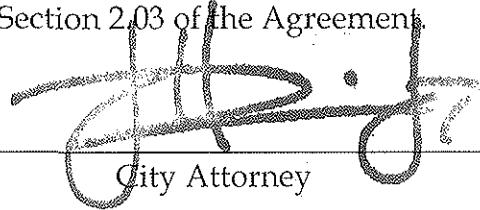
City Manager

I attest that this amendment complies with
Section 2.03 of the Agreement.

Attest



City Clerk

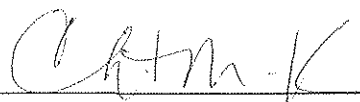


City Attorney

SEAL



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



Deputy Director
Division of Water Resource Management

SEP 28 2012

Date