RESOLUTION NO. 14-04-23

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM PROJECT NUMBER WW882020; AUTHORIZING AND APPROVING AMENDMENT #3 TO THE LOAN AGREEMENT BETWEEN THE VILLAGE AND THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING FOR EXECUTION OF LOAN DOCUMENTS; PROVIDING AUTHORITY; PROVIDING FOR ISSUANCE FEES AND TRANSACTION COSTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes provides for loans to local government agencies to finance the construction of wastewater and water pollution control facilities (the “State Revolving Fund” or “SRF”); and

WHEREAS, the Florida Administrative Code rules require authorization for a local government to apply for loans; to establish pledged revenues; to designate an authorized representative; to provide assurances of compliance with loan program requirements; and to enter into a loan agreement; and

WHEREAS, Islamorada, Village of Islands (the “Village”) previously entered into a Loan Agreement with the Florida Department of Environmental Protection (FDEP), approved by Resolution No. 12-09-82, for financing of pre-construction and construction activities in the Remaining Service Areas (RSA) with a disbursable loan amount of $26,194,014 in FY 2012-2013; and

WHEREAS, the Village Council adopted Resolution No. 13-03-10 authorizing Amendment 1 to the Loan Agreement between the Village and FDEP, thereby increasing the
disbursable loan amount for wastewater construction activities in the RSA by $20,000,000 to $46,194,014 in FY 2012-2013; and

WHEREAS, the Village Council subsequently adopted Resolution No. 13-12-97 authorizing Amendment 2 to the Loan Agreement between the Village and FDEP, thereby increasing the disbursable loan amount for wastewater construction activities in the RSA by $25,000,000 to $71,194,014 FY 2013-2014; and

WHEREAS, the Village, in conjunction with FDEP, desires to further amend the Loan Agreement to include an additional allocation of $6,000,000 and increase the disbursable loan amount in FY 2013-2014 from $71,194,014 to $77,194,014; and

WHEREAS, the Village Council desires to authorize the Mayor and/or Village Manager to execute Amendment 3 to the Loan Agreement between the Village and FDEP, as set forth in Exhibit “A” attached hereto; and

WHEREAS, the Village Council finds that approval and execution of Amendment 3 to the Loan Agreement is in the best interest of the Village.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

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

Section 2. Approving Amendment 3 to the Loan Agreement. The Village Council of Islamorada, Village of Islands (“Village Council”) hereby approves Amendment 3 to the Loan Agreement between the Village and FDEP (Clean Water State Revolving Fund Loan Agreement Number WW882020), thereby making an additional $6,000,000.00 available in SRF loan funds
in FY 2013-2014 (excluding capitalized interest and loan issuance fees) for the Village’s Wastewater Project.

Section 3. Authorizing Execution of Amendment 3 to the Loan Agreement. The Village Council hereby authorizes the Mayor and/or or Village Manager to execute Amendment 3 to the Loan Agreement, as set forth in Exhibit “A” attached hereto, together with such non-material changes as may be required by the Lender and that are acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 4. Pledged Revenues. The revenues pledged for repayment of the loan are wastewater non-ad valorem assessments (adopted pursuant to Village Resolution Nos. 11-06-38 and 11-07-47), gross revenues derived yearly from the operation of the sewer system constructed by the Project after payment of the operation and maintenance expenses, and one-cent local government infrastructure sales surtax proceeds approved for extension of the levy through December 31, 2033 by a voter referendum in November 2012. To secure the payment of the Village’s obligations to the Lender under the Loan Documents, the Village shall budget and appropriate from the wastewater non-ad valorem assessments and available gross revenues an amount sufficient to pay all amounts due to the Lender in the applicable budget year.

Section 5. Authorization of Village Officials. The Village Manager is hereby designated as the authorized representative to provide the assurances and commitments required by the State Revolving Fund, the Loan Agreement, and any Amendments to the Loan Agreement. The Mayor, Village Manager, and Village Attorney are further authorized to execute any and all certifications and other agreements or any other documents required by the Lender as a prerequisite or precondition to making the loan in the Loan Documents and any such representation made therein shall be deemed to be made on behalf of the Village.
Section 6. Execution of Documents. The Mayor is hereby designated as the authorized representative to execute the Loan Documents, which will become a binding obligation in accordance with its terms when signed by both parties. The Village Manager is authorized to represent the Village in carrying out the Village’s responsibilities under the Loan Documents. The Village Manager is authorized to delegate responsibility to appropriate Village staff to carry out technical, financial, and administrative activities associated with the Loan Documents.

Section 7. Legal Authority for Borrowing Funds. The Village’s legal authority for borrowing moneys, issuing bonds, notes or other obligations to finance the cost to construct this Project is pursuant to the Village’s Home Rule Authority as derived from Chapter 166, Florida Statutes, the Village’s Charter, Code of Ordinances and the laws of the State of Florida.

Section 8. Issuance Fees and Transaction Costs. The Village authorizes the payment of issuance fees and transaction costs from legally available sources in connection with the execution and delivery of the Loan Agreement.

Section 9. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.
Motion to adopt by Councilman Ken Philipson, second by Vice Mayor Deb Gillis.

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:
Mayor Ted Blackburn YES
Vice Mayor Deb Gillis YES
Councilman Mike Forster YES
Councilman Ken Philipson YES
Councilman Dave Purdo YES

PASSED AND ADOPTED this 10th day of April, 2014.

[Signature]
TED BLACKBURN, MAYOR

ATTEST:

[Signature]
SYNTHEA LANKFORD, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

[Signature]
ROGET V. BRYAN, VILLAGE ATTORNEY
This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and ISLAMORADA, VILLAGE OF ISLANDS, 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 WW882020, as amended, authorizing a Loan amount of $71,194,014, excluding Capitalized Interest; and

WHEREAS, the Local Government is entitled to additional financing of $6,000,000, 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. Subsection 2.03(1) of the Agreement is deleted and replaced as follows:

   Funds provided under this Agreement have been identified as second-tier monies under the Federal Clean Water Act which are identified as state funds whose use is federally protected.

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

<table>
<thead>
<tr>
<th>State Resources Awarded to the Local Government Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Program Number</strong></td>
</tr>
<tr>
<td>Original Agreement</td>
</tr>
</tbody>
</table>
2. Additional financing in the amount of $6,000,000, excluding Capitalized Interest, is hereby awarded to the Local Government.

3. A Financing Rate of 2.96 percent per annum is established for the additional financing amount awarded in this amendment. Individually, the interest rate is 1.48 percent per annum and the Grant Allocation Assessment rate is 1.48 percent per annum. However, if this amendment is not executed by the Local Government and returned to the Department before April 1, 2014, the Financing Rate may be adjusted.

4. The estimated principal amount of the Loan is hereby revised to $79,687,814, which consists of $77,194,014 authorized for disbursement to the Local Government and $2,493,800 of Capitalized Interest. This total consists of the following:

   (a) Revised Original Agreement of $27,204,414, including $26,194,014 authorized for disbursement to the Local Government and $1,010,400 of Capitalized Interest, at a Financing Rate of 2.44 percent per annum (the interest rate is 1.22 percent per annum and the Grant Allocation Assessment rate is 1.22 percent per annum); and

   (b) Revised Amendment 1 of $20,592,800, including $20,000,000 authorized for disbursement to the Local Government and $592,800 of Capitalized Interest, at a Financing Rate of 2.19 percent per annum (the interest rate is 1.095 percent per annum and the Grant Allocation Assessment rate is 1.095 percent per annum); and

   (c) Revised Amendment 2 of $25,746,100, including $25,000,000 authorized for disbursement to the Local Government and $746,100 of Capitalized Interest, at a Financing Rate of 3.03 percent per annum (the interest rate is 1.515 percent per annum and the Grant Allocation Assessment rate is 1.515 percent per annum); and

   (d) Amendment 3 of $6,144,500, including $6,000,000 authorized for disbursement to the Local Government and $144,500 of Capitalized Interest, at a Financing Rate of 2.96 percent per annum (the interest rate is 1.48 percent per annum and the Grant Allocation Assessment rate is 1.48 percent per annum).

5. An additional Loan Service Fee in the amount of $120,000, for a total of $1,543,880, is hereby estimated. The fee represents two percent of the Loan amount excluding Capitalized Interest, that is, two percent of $77,194,014.

6. The Semiannual Loan Payment amount is hereby revised and shall be in the amount of $2,619,507. Such payments shall be paid to, and must be received by the Department beginning on June 15, 2016 and semiannually thereafter on December 15 and June 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.

The estimated Project costs are revised as follows:

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>COST($)</th>
<th>AUTHORIZED LOAN AMOUNT($) TO DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowance costs</td>
<td>1,820,199</td>
<td></td>
</tr>
<tr>
<td>Construction and Demolition</td>
<td>90,900,000</td>
<td>Line items may vary</td>
</tr>
<tr>
<td>Contingencies</td>
<td>4,545,000</td>
<td>based on Actual</td>
</tr>
<tr>
<td>Technical Services After Bid Opening</td>
<td>10,405,880</td>
<td>Disbursements</td>
</tr>
<tr>
<td>SUBTOTAL (Disbursable Amount)</td>
<td>107,671,079</td>
<td>77,194,014</td>
</tr>
<tr>
<td>Capitalized Interest</td>
<td>2,493,800</td>
<td>2,493,800</td>
</tr>
<tr>
<td>TOTAL (Loan Principal Amount)</td>
<td>110,164,879</td>
<td>79,687,814</td>
</tr>
</tbody>
</table>

8. Section 10.08 is amended to include the following:

(4) The Local Government shall deposit an additional $414,914 in the Loan Repayment Reserve Account for a total of $5,239,014 and provide documentation before any funds from this Amendment are disbursed.

(5) Prior to any funds being released, the Local Government shall submit a certified copy of the Resolution which authorizes the increase and establishes all Pledged Revenues sources.

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

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
This Amendment 3 to Loan Agreement WW882020 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 Program Administrator 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 Program Administrator.

for
ISLAMORADA, VILLAGE OF ISLANDS

[Signature]
Mayor

Attest

[Signature]
Village Clerk

Approved as to form and legal sufficiency:

[Signature]
Village Attorney

SEAL

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

__________________________  __________________________
Program Administrator                 Date
State Revolving Fund