

**CITY OF MARATHON, FLORIDA
RESOLUTION 2004-133**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MARATHON, FLORIDA, APPROVING A SETTLEMENT AGREEMENT
AND MUTUAL RELEASE OF ALL CLAIMS WITH SEVERN TRENT
ENVIRONMENTAL SERVICES, INC., REGARDING DISPUTED FEES**

WHEREAS, Whereas Severn Trent Environmental Services, Inc. (“STES”) and the City of Marathon, Florida (the “City”) entered into a certain Agreement for Administrative, Finance, and Community Services, dated as of August 22, 2000, and amended on March 13, 2001, October 15, 2002 and January 14, 2003 (the “Services Agreement”); and

WHEREAS, certain disputed claims have arisen between STES and the City relating to the Services Agreement; and

WHEREAS, STES asserts it is owed approximately \$230,000.00 in fees for services rendered under the Services Agreement, which the City disputes; and

WHEREAS, in exchange for the City paying STES \$75,000.00, the parties desire to settle all claims, resolve all matters between them, and mutually release one another from any claims arising out of the Services Agreement.

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 Settlement Agreement and Mutual Releases, a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is approved. The City Manager is authorized to sign the agreement on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 26th day of October, 2004.

THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

AYES: Bartus, Bull, Miller, Pinkus

NOES: Mearns

ABSENT: None

ABSTAIN: None

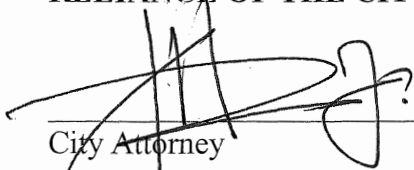
ATTEST:



Cindy L. Ecklund
City Clerk

(City Seal)

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



City Attorney

SETTLEMENT AND RELEASE AGREEMENT

This SETTLEMENT AND RELEASE AGREEMENT (the "Settlement Agreement") is made and entered into as of the 26th day of October, 2004, by and between Severn Trent Environmental Services, Inc., a corporation organized and existing under the laws of the State of Texas, ("STES") and the City of Marathon, a municipal corporation organized and existing under the laws of the State of Florida (the "City") (collectively, the "Parties").

Whereas the Parties entered into a certain Agreement for Administrative, Finance, and Community Services, dated as of August 22, 2000, and amended on March 13, 2001, October 15, 2002 and January 14, 2003 (the "Services Agreement"); and

Whereas, certain disputed claims have arisen between the Parties relating to the Services Agreement; and

Whereas, the Parties desire to settle such claims, resolve all matters between them, and mutually release one another from any claims arising out of the Services Agreement.

Now, therefore, in consideration of the mutual promises and covenants of each to the other contained in this Settlement Agreement, the Parties do hereby covenant and agree as follows:

1. For and in consideration of the Parties' relinquishment of all claims arising out of the Services Agreement, simultaneously with the execution of this Settlement Agreement:

(i) The City shall pay STES the sum of Seventy-Five Thousand Dollars (\$75,000) via wire transfer, upon execution of this Settlement Agreement by both parties, in accordance with the wiring instructions attached as Exhibit A;

(ii) The City shall execute and deliver to STES a release in form and content identical to the release attached hereto as Exhibit B; and

(iii) STES shall execute and deliver to the City a release in form and content identical to the release attached hereto as Exhibit C.

(iv) All accounts payable records, all records from previous City Manager and Director of Community Services and any studies requested by the City in possession of Severn Trent and Meyer & Associates.

2. This Settlement Agreement, including Exhibits A, B, and C attached herein, form the entire settlement of the claims as between the Parties. References to "this Agreement," the "Agreement" or the "Settlement Agreement" shall refer to this document and any and all exhibits attached hereto.

3. Any notice required or permitted to be given under this Settlement Agreement must be in writing and shall be deemed to have been given when delivered personally or by registered or certified mail, return receipt requested, to the party to whom the notice is directed at the address first written above or at such other address as may be designated by the parties herein in writing from time to time.

4. No change in or modification, termination or discharge of this Settlement Agreement shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith or its duly authorized representative; provided, however, that any change in or modification, termination or discharge of this Settlement Agreement expressly provided for in this Settlement Agreement shall be effective as so provided.

5. This Settlement Agreement shall be governed by the laws of the State of Florida. No action or proceeding shall be commenced by either party hereto against the other except in the State of Florida. The parties agree that the venue for any action arising from this Settlement Agreement shall be in the circuit court in and for Monroe County, middle district or in the southern district for the State of Florida if in Federal court.

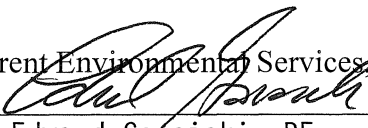
6. This Settlement Agreement is complete and any and all prior agreements, understandings and communications, whether oral or written, are deemed merged herein and superseded hereby. This Settlement Agreement may be signed in counterpart copies, each of which shall be deemed an original, but all of which taken together shall constitute one instrument.

7. The City and STES shall each bear the cost of their own attorney's fees.

8. Captions, headings, cover pages, tables of contents and footnote instructions contained in this Settlement Agreement are inserted only to facilitate reference and for convenience and in no way define, limit or describe the scope, intent or meaning of any provision contained in this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement by their duly authorized representatives in two (2) counterparts each which shall be deemed an original as of the date first above written.

Severn Trent Environmental Services, Inc.

By: 
Name: Edward Goscicki, PE
Title: Vice President

City of Marathon, Florida

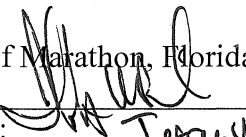
By: 
Name: Jeremy M. Hie
Title: Mayor

EXHIBIT A
Wiring Instructions

Severn Trent Environmental Services, Inc.
Citizens Bank
Philadelphia, PA
Account 669900-489-5
ABA #036076150

EXHIBIT B

**To all to whom these Presents shall come or may Concern,
Know That:**

CITY OF MARATHON, a municipal corporation organized and existing under the laws of the State of Florida as RELEASOR, in consideration of good and valuable consideration received from

SEVERN TRENT ENVIRONMENTAL SERVICES, INC.

as RELEASEE,

receipt whereof is hereby acknowledged, releases and discharges

SEVERN TRENT ENVIRONMENTAL SERVICES, INC.

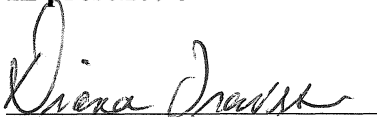
the RELEASEE, all of RELEASEE's heirs, executors, officers, members, directors, shareholders, administrators, successors, subsidiaries, affiliates, agents and assigns it has ever had, now has or hereafter can, shall, or may, have from all actions, causes of action, suits, debts, dues, sums of money, accounts reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty, or equity, which against the RELEASEE, the RELEASOR, the RELEASOR'S successors and assigns have ever had, now have, or hereafter can, shall, or may have, for, upon, or by reason of any matter, cause, or thing whatsoever arising from that certain agreement dated as of August 22, 2000 and amended on March 31, 2001, October 15, 2002 and January 14, 2003 by and between RELEASOR and RELEASEE from the beginning of the world to the day of the date of this RELEASE.

Whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

This RELEASE may not be changed orally.

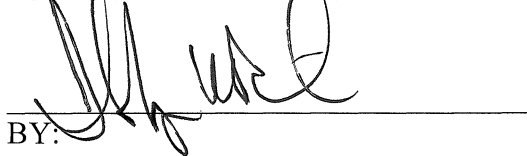
In Witness Whereof, the RELEASOR has hereunto set RELEASOR'S hand and seal on the 1 day of Nov, 2004

In presence of



Witness

CITY OF MARATHON


BY: _____

STATE OF Florida, COUNTY OF MONROE ss.:

On 1 day of NOV, 2004 before me personally came Jeff Pinkis
to me known, who, by me duly sworn, did depose and say
that deponent resides at Marathon, Fl. 33050

that deponent is the Mayor of City of Marathon, a _____ described in, and which executed the
foregoing RELEASE, that deponent knows the seal of the City, that the seal affixed to the
RELEASE is the City seal, that it ~~was affixed by order of the _____ of the _____~~, and that
deponent signed deponent's name by like order.

Rose Ann Hightower
Notary


 Rose Ann Hightower
My Commission DD177723
Expires January 21, 2007

EXHIBIT C

**To all to whom these Presents shall come or may Concern,
Know That:**

SEVERN TRENT ENVIRONMENTAL SERVICES, INC., a corporation organized and existing under the laws of the State of Texas as RELEASOR, in consideration of good and valuable consideration received from

CITY OF MARATHON

as RELEASEE,

receipt whereof is hereby acknowledged, releases and discharges

CITY OF MARATHON


the RELEASEE, all of RELEASEE's heirs, executors, officers, members, directors, shareholders, administrators, successors, subsidiaries, affiliates, agents and assigns it has ever had, now has, or hereafter can, shall, or may, have from all actions, causes of action, suits, debts, dues, sums of money, accounts reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty, or equity, which against the RELEASEE, the RELEASOR, the RELEASOR'S successors and assigns have ever had, now have, or hereafter can, shall, or may have, for, upon, or by reason of any matter, cause or thing whatsoever arising from that certain agreement dated as of August 22, 2000 and amended on March 31, 2001, October 15, 2002 and January 14, 2003 by and between RELEASOR and RELEASEE from the beginning of the world to the day of the date of this RELEASE.

Whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

This RELEASE may not be changed orally.

In Witness Whereof, the RELEASOR has hereunto set RELEASOR'S hand and seal on the 21st day of October, 2004

In presence of


Witness

SEVERN TRENT ENVIRONMENTAL
SERVICES, INC.

BY:



STATE OF Florida, COUNTY OF Duval ss.:

On 21st day of October, 2004 before me personally came

to me known, who, by me duly sworn, did depose and say

that deponent resides at

that deponent is the ~~President~~ of Severn Trent Environmental Services, Inc., a corporation described in, and which executed the foregoing RELEASE, that deponent knows the seal of the corporation, that the seal affixed to the RELEASE is the company seal, that it was affixed by order of the members of the company; and that deponent signed deponent's name by like order.

Ann M. Boudreault

Notary

