

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2008-95**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING CITY MANAGER TO ENTER INTO INDEMNIFICATION AGREEMENT WITH MARATHON HOUSING ASSOCIATES, LTD FOR SERVICE AREA 4 WASTEWATER TREATMENT PLANT CONSTRUCTION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon (the “City”) and Marathon Housing Associates, LTD (“MHA”) and Winn Dixie Properties LLC (“WD”) entered into a Wastewater Services Agreement (the “WWS Agreement”) together; and

**WHEREAS**, the WWS Agreement imposes certain responsibilities on MHA which MHA does not find a basis to justify assumption of said responsibilities; and

**WHEREAS**, it is for the benefit of the City and its residents to have WD discontinue using its plant (the “WD Facility”) permitted by the Florida Department of Environmental Protection and connect to the wastewater treatment plant owned by MHA so that the City can proceed with the development and construction of a municipal wastewater treatment plant facility for Service Area Four.

**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 the Indemnification Agreement for Service Area 4 wastewater treatment plant construction, a copy of which is attached hereto 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; and authorizes the Manager to execute the agreement.

**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 10th day of June, 2008.

**THE CITY OF MARATHON, FLORIDA**

  
Edward P. Worthington, Mayor

AYES: Bull, Cinque, Tempest, Vasil, Worthington  
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

## INDEMNIFICATION AGREEMENT

**THIS INDEMNIFICATION AGREEMENT** (the "Indemnification Agreement") is made and entered into as of the 10 day of June, 2008, (the "Effective Date") by and between MARATHON HOUSING ASSOCIATES, LTD., a Florida limited partnership ("MHA") with an office at 1400 Kennedy Drive, Key West, Florida 33040 and CITY OF MARATHON, a Florida municipal corporation (the "City") with offices at 9805 Overseas Highway, Marathon, Florida 33050.

### RECITALS

WHEREAS, contemporaneously with the City and MHA entering into this Indemnification Agreement, MHA and Winn Dixie Properties, LLC, a Florida limited liability company ("WD") entered into a Wastewater Services Agreement (the "WWS Agreement"), a copy of which is attached hereto as Exhibit "A" and made a material part hereof; and

WHEREAS, the WWS Agreement imposes certain responsibilities on MHA which MHA does not find a basis to justify assumption of said responsibilities; and

WHEREAS, it is for the benefit of the City and its residents to have WD discontinue using its plant (the "WD Facility") permitted by the Florida Department of Environmental Protection, Permit Number FLA014985 and connect to the wastewater treatment plant owned by MHA and operated by a third party operator (the "TPO") (the "MHA Facility") permitted by the Florida Department of Environmental Protection under authority of permit FLA014698 so that the City can proceed with the development and construction of a municipal wastewater treatment (the "WWTF") to provide a wastewater treatment facility to Service Area 4 in the City.

**NOW, THEREFORE**, in consideration of Ten Dollars (\$10.00) and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, and intending to be legally bound thereby, it is agreed as follows:

1. **Indemnification.**

(a) The City does hereby agree to defend, indemnify and hold MHA, and its officers, employees and agents harmless from, against and in respect of, any and all liabilities, damages, claims, deficiencies, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees, cost, and expenses at both the trial and appellate levels) arising from, in connection with, or incident to MHA's liability to W-D under the WWS, including but not limited to all repairs, maintenance or replacements resulting from the increased use of the MHA facility. However, this indemnification shall not cover any liabilities, damages, claims, deficiencies, penalties, costs and expenses arising from the gross negligence or willful misconduct of MHA or any of its officers, employees or agents.

(b) Indemnity Procedure. MHA shall, with respect to claims asserted against it, give written notice to the City of any liability which may give rise to a claim for indemnity under this Indemnification Agreement within two (2) days of the receipt of any written claim from any party.

As to any claim, action, suit or proceeding, upon receipt of notice from MHA, the City shall, in good faith and at its sole expense, defend or settle any such claim. MHA shall cooperate with and assist the City to the extent reasonably possible.

2. **Notices.** All notices hereunder shall be in writing and shall be deemed to have been properly delivered when directed to the addressees as follows:

If to MHA: Marathon Housing Associates, Ltd.  
1400 Kennedy Drive  
Key West, Florida 33040  
Attn: Jay Manuel Castillio, Sr.,  
Executive Director  
Phone No.: (305) 296-5621  
Facsimile No.: (305) 295-6529

With a copy to: John M. Spottswood, Esq.  
500 Fleming Street  
Key West, Florida 33040-6882  
Phone No.: (305) 294-9556 Ext. 21  
Facsimile No.: (305) 292-1982

If to the City: The City of Marathon  
9805 Overseas Highway  
Marathon, Florida 33050  
Phone No.: (305) 289-4130  
Facsimile No.: (305) 289-4123  
Attention: The City Manager

With a copy to: Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
150 West Flagler Street, Suite 2200  
Miami, Florida 33130  
Attn: Jimmy Morales, Esquire  
Phone No.: (305) 789-3532  
Facsimile No.: (305) 789-3395

Any notice, request, demand, instruction or other communication to be given to either party hereunder, shall be in writing, shall either be (i) hand-delivered; (ii) sent by FedEx or a comparable overnight mail service; or (iii) sent by telephone facsimile transmission. Notices shall be deemed to have been given upon receipt or refusal and delivery of said notice. The addressees and addresses for the purposes of this provision may be changed by giving notice. Unless and until such written notice

is received, the latest addressee and address stated herein shall be deemed to continue in effect for all purposes hereunder.

3. **Counterpart Execution.** This Indemnification Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but one and the same instrument and shall be binding upon each of the undersigned individually as fully and completely as if all had signed but one instrument so that the joint and several liability of each of the undersigned shall be unaffected by the failure of any of the undersigned to execute any or all of said counterparts.

4. **Choice of Law, Jurisdiction, Venue.** This Indemnification Agreement and the rights and obligations of the parties hereunder shall in all respects be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Florida (excluding the principles thereof governing conflicts of law). Sellers hereby irrevocably submit to the non-exclusive jurisdiction of any Florida or Federal court sitting in Monroe County, Florida over any suit, action or proceeding arising out of or relating to this Indemnification Agreement.

5. **Successors and Assigns.** Except as expressly provided herein to the contrary, this Indemnification Agreement shall be binding upon and inure to the benefit of MHA and the City and their respective heirs, personal representatives, successors and assigns.

6. **Attorneys' Fees.** Any reference in this Indemnification Agreement to attorneys' fees paid or incurred by MHA shall be deemed to include all reasonable attorneys' fees, paralegals' fees, legal assistants' fees and cost including through the appellate level.

7. **Gender.** Use of any gender shall include all other genders and words in the singular include the plural, and the plural include the singular.

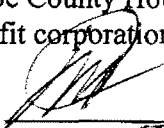
8. **Severability.** If any provision of this Indemnification Agreement shall be contrary to the laws of the jurisdiction in which the same shall be sought to be enforced, the illegality or unenforceability of any such provision shall not affect the other terms, covenants and conditions hereof, and the same shall be binding upon the parties with the same force and effect as though such illegal or unenforceable provision were not contained herein.

9. **WAIVER OF TRIAL BY JURY.** MHA AND THE CITY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED ON THIS INDEMNIFICATION AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR MHA AND THE CITY, ENTERING INTO THIS INDEMNIFICATION AGREEMENT.

IN WITNESS WHEREOF, the undersigned have executed this Indemnification Agreement as of the date first above written.

MARATHON HOUSING ASSOCIATES, LTD., a  
Florida limited partnership

By: Monroe County Housing Corporation, a Florida  
not-for-profit corporation, a general partner

By:   
Print Name: J. Manuel Castillo, Sr.  
Its: Exec. Dir.

and

By: Monroe County Housing Authority, a general partner

By: [Signature]  
Print Name: J. Manuel Castillo  
Its: Exec. Dir.

CITY OF MARATHON, a Florida municipal corporation

By: [Signature: Clyde Burnett]  
Clyde Burnett, its manager

By: \_\_\_\_\_  
Name: CLYDE BURNETT  
Title: CITY MANAGER

Signed, sealed and delivered in the Presence of the City Clerk:

Attest:

[Signature: Diane Clavier]  
City Clerk

Approved as to form and legal sufficiency solely for the use and reliance of the City of Marathon, Florida

[Signature]  
City Attorney



**EXHIBIT "A"**

(Copy of WWS Agreement)

**WASTEWATER SERVICE AGREEMENT**

[WD - E/W]

THIS WASTEWATER OPERATING AGREEMENT (the "Agreement"), dated as of the 4 day of ~~May~~ <sup>June</sup>, 2008 (the "Effective Date"), by and between MARATHON HOUSING ASSOCIATES, LTD., a Florida limited partnership ("MHA") with an office at 1400 Kennedy Drive, Key West, Florida 33040 and WINN DIXIE PROPERTIES, LLC, a Florida limited liability company ("WD") with an office at 5050 Edgewood Court, Jacksonville Florida, 32254.

**RECITALS**

A. A third party wastewater operator ("TPO") on behalf of MHA currently manages and operates a 0.06 million gallon per day capacity wastewater treatment plant (the "MHA Facility") which is permitted by the Florida Department of Environmental Protection under authority of permit FLA014698 to provide sanitary sewer service to the residents of the Eastwinds Apartments, located at 240 Sombrero Beach Road, Marathon, Florida 33050.

B. A TPO on behalf of WD currently manages and operates a 0.015 million gallon per day capacity wastewater treatment plant (the "WD Facility") permitted by the Florida Department of Environmental Protection under authority of permit FLA014985 that provides sanitary sewer service to the businesses in the K-Mart shopping plaza (the "K-Mart Shopping Plaza") located at the corner of Sombrero Beach Road along US Highway 1, Marathon, Florida 33050.

C. The City of Marathon (the "City"), in compliance with S.4, Chapter 99-395, Laws of Florida is presently planning for the construction of a municipal wastewater treatment facility (the "WWTF") to provide a wastewater treatment facility to Service Area 4 in the City. A map of

Winn-Dixie Properties, LLC/  
Monroe County Housing Authority  
Temporary Wastewater Agreement  
May \_\_\_\_, 2008

Service Area 4 is attached hereto as Exhibit "A" and made a part hereof. The construction of the WWTF will require the use of the land on which the WD Facility is located.

D. MHA is willing to provide sanitary sewer service to the businesses currently connected to the WD Facility, through its MHA Facility for a period of time not to exceed 720 days from the Effective Date of this Agreement (the "Term"), subject to the terms and conditions set forth in this Agreement.

E. The City's engineer has reviewed and analyzed the MHA Facility and reasonably believes it will meet the anticipated temporary needs of the K-Mart Shopping Plaza for the term of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, and intending to be legally bound thereby, it is agreed as follows:

1. Definitions. The following terms shall have the respective meanings set forth in the respective sections of the Agreement identified below:

DEP shall mean the Florida Department of Environmental Protection.

MGD shall mean million gallons per day.

Point of Delivery shall mean the point at which the four (4) inch force main (the "Force Main") enters the MHA Facility.

Rate as such term is defined in Section 4 hereof.

2. Delivery of Effluent. The Force Main shall be installed from the location of the lift station located on land owned by the City (the "Lift Station Site") to deliver untreated sewage from the K-Mart Shopping Plaza to the MHA Facility. A sketch of the location of the Lift

Station Site is attached hereto as Exhibit "B" and made a part hereof. DEP, by its letter dated March 28, 2008, issued a permit to construct the Force Main. A copy of DEP's letter is attached hereto as Exhibit "C". The City will pay any and all fees associated with the required permitting activities. The City has contracted with Lanzo Construction Co., Florida ("Lanzo") to install at the City's cost, the Force Main. MHA hereby agrees to allow Lanzo access to MHA's land and the MHA Facility, as needed, to install the Force Main and make the connection to the MHA Facility.

3. Metering Devices: During the Term, at WD's expense, the TPO shall maintain the lift station at the Lift Station Site in an operational condition. The pumps and control panels shall be maintained by the TPO to function as intended in compliance with applicable DEP rules and regulations. The elapsed time meters shall be used to measure the amount of flow to the MHA Facility. This data shall be measured and reported in compliance with the conditions of the permit.

4. Charges. To be effective on the date of the connection of the Force Main to the MHA Facility is completed and flow commences from the Lift Station Site to the MHA Facility:

(a) The monthly base rate to be paid by WD to MHA is to be a prorated percentage of the current monthly base rate for operation and maintenance services as stated in the existing service agreement between the TPO of the MHA Facility, (currently Synagro South, LLC), and MHA. The percentage will be calculated dividing the Annual Average Daily Flow from the WD Facility divided by the sum of the Annual Averaged Daily Flows from both facilities, based on the past 12 months flow data, as averaged Daily Flows from both facilities,

based on the past 12 month flow data as reflected on the FDEP Discharge Monitoring Reports for both the WD Facility and the MHA Facility.

(b) All additional costs associated with maintenance and operations of the MHA Facility shall be paid as a percentage calculated by dividing the Monthly Average Daily flow from the WD Facility by the total flow to the MHA Facility, based on the monthly average daily flows as recorded by the TPO.

(c) MHA shall pay the TPO of the MHA Facility promptly, but in any event no later than the terms of the agreement between the MHA and the TPO allows.

(d) WD shall pay MHA all charges within thirty (30) days of receipt of any invoice setting forth charges for the previous calendar month. If the charges remain unpaid after thirty (30) days of written notice, MHA may pursue any legal means necessary collect the unpaid balance.

(e) In no event shall WD be responsible for paying MHA more than two thousand dollars (\$2,000.00) per month for the base rate and any additional costs.

(f) Notwithstanding any other provision of this agreement to the contrary, WD will not be held liable for any damages that result from a failure of the MHA Facility should MHA fail to pay the TPO to maintain adequate service or file all necessary FDEP Discharge Monitoring Reports with the FDEP during the term of this agreement. In such event, MHA shall remain liable for any and all damages to WD.

5. Right of Access. MHA agrees to allow Lanzo, its workers, subcontractors and authorized representatives access to the MHA Facility as needed for the purposes of completing the construction of and tie-in of the Force Main to the MHA Facility. City, through its authorized

contractor Lanzo, in performing any labor or using any equipment on WD's premises, as contemplated in this Agreement, will fully comply and ensure that its agents, employees, representatives and subcontractors conduct their activities on WD's premises in a manner which will fully comply with all applicable safety and health standards established by any applicable federal, state or municipal statute, regulation or ordinance, including, without limitation, the federal occupational Safety and Health Act, as amended.

6. Term. This agreement shall become effective on the Effective Date and shall continue in full force and effect until the expiration of the term.

7. Default. With the exception of an emergency situation as set forth below, in the event of a default by either party of its duties and obligations hereunder, the non-defaulting party shall provide written notice to the defaulting party specifying the nature of the default and the defaulting party shall have five days to cure any default of a monetary nature and 30 days for any other default. If the default has not been cured within the applicable period, the non-defaulting party shall be entitled to exercise all remedies available at law or in equity, including but not limited to, the right to damages, injunctive relief and specific performance.

8. Emergency Situations. WD hereby agrees not to hold MHA liable for damages for failure of WD Facility equipment that results in the failure to deliver effluent from the Lift Station Site to the MHA Facility, it being understood that the TPO has the operational responsibility for maintaining the Lift Station Site. All equipment to transmit effluent from the Lift Station Site to MHA Facility shall be maintained by the TPO to function as intended, in compliance with the requirements of Chapter 62-604, Florida Administrative Code. In the event of an equipment failure at the MHA Facility that threatens the property or safety of the K-Mart

Shopping Plaza, MHA agrees to promptly repair or replace the MHA Facility, or arrange for the temporary treatment of all of the wastewater processed by the MHA Facility, to ensure that the effluent from the K-Mart Shopping Plaza will be handled safely and in compliance with the terms of the FDEP permit and that the K-Mart Shopping Plaza may remain open and operational at all times. In the event MHA fails to repair the MHA Facility promptly, after notice to MHA, and the K-Mart Shopping Plaza is materially impacted by such failure, MHA authorizes WD to immediately perform any necessary emergency repair or replacement of the MHA Facility and MHA shall be responsible for the reimbursement to WD of WD's actual expenses and damages in performing such emergency repair or replacement. Reimbursement of same shall be paid within five (5) business days of demand therefore.

9. Indemnification. MHA shall indemnify and hold WD, its successors and assigns, harmless from all loss, liability and expense, including any and all direct and incidental damages incurred by the current, and any future, tenants located within the K-Mart Shopping Center, if the temporary wastewater system fails, through no fault of WD. In addition MHA shall indemnify and hold WD harmless from any and all claims, including reasonable attorneys' fees, by reason of bodily injury, including death, and property damage sustained by any person or entity whatsoever arising out of or in connection with any presence or activity of MHA, its employees, agents and representatives (including sub-contractors) on WD's premises, including the use of any equipment by MHA on WD's premises, whether belonging to MHA, WD, or otherwise, and whether such injury, death, loss or damage is caused, occasioned or contributed to by MHA's negligence or the negligence, sole or concurrent, of WD, its successors and assigns.

10. Notices. Any notice hereunder shall be in writing and shall be deemed to have been properly delivered when directed to the addresses as follows:

If to MHA:

Marathon Housing Associates, Ltd.  
1400 Kennedy Drive  
Key West, Florida 33040  
Attn: J. Manuel Castillo, Sr.,  
Executive Director  
Phone No.: (305) 296-5621  
Facsimile No.: (305) 295-6529

with a copy to the \_\_\_\_\_ attorney as follows:

If to WD:

The Winn-Dixie Properties, LLC  
5050 Edgewood Court  
Jacksonville, Florida 32254  
Attn: Vice President, Real Estate  
Phone No.: (904) 783-5000  
Facsimile No.: (904) 783-5138

with a copy to WD's attorney:

General Counsel for Winn-Dixie Properties, LLC  
5050 Edgewood Court  
Jacksonville, Florida 32254  
Attn: Vice President, Real Estate  
Phone No.: (904) 783-5000  
Facsimile No.: (904) 783-5138

Any notice, request, demand, instruction or other communication to be given to either party hereunder, shall be in writing, shall either be (i) hand-delivered, (ii) sent by FedEx or a comparable overnight mail service, or (iii) sent by telephone facsimile transmission. Notices shall be deemed to be given upon receipt or refusal of delivery of said notice. The addressees and addresses for the purpose of this paragraph may be changed by giving notice. Unless and until such written notice is received, the last addressee and address stated herein shall be deemed to continue in effect for all purposes hereunder.

11. Captions. Captions used in this Agreement are for information purposes only and do not alter, modify or add to the terms of this Agreement.



12. Governing Law. This Agreement shall be governed and interpreted pursuant to the laws of the State of Florida.

13. No Waiver. Failure by either party to enforce any covenant, condition or provision contained in this Agreement and any certain instance or on any particular occasion shall not be deemed a waiver of such right on any future breach of the same or any other covenant, condition or restriction.

14. Attorney's Fees. In the event action is instituted to enforce any of the provisions contained in this Agreement, the prevailing party in such action shall be entitled to recover from the other party hereto reasonable attorney's fees and costs of such suit as determined by the Court or by an arbitration as a part of the judgment.

15. Modification/Entire Agreement. This Agreement may be modified only in writing executed by the parties to this Agreement or their respective successors or assigns. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and it shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.


16. Time Is Of The Essence. Time is of the essence in the performance of all obligations of MHA and WD under this Agreement.

17. Waiver of Trial by Jury. MHA & WD hereby knowingly, voluntarily and intentionally, waive trial by jury in any action brought by one against the other in connection with any matter arising out of or in any way connected to this Agreement. This waiver shall apply to any original claim, counterclaim, cross claim or other claim of any kind asserted by either party to any such action. Neither party nor any representative of either party, including counsel, has represented to

the other that it would not seek to enforce this waiver or right to jury trial in any such action. The parties acknowledge that the provisions of this section are material inducement to their entering into the Agreement.

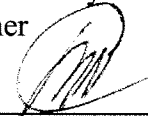
MARATHON HOUSING ASSOCIATES,  
LTD., a Florida limited partnership

By: Monroe County Housing Corporation, a  
Florida not-for-profit corporation, a general  
partner

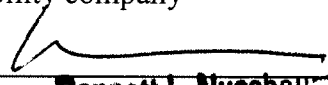
By:   
Print Name: J. Manuel Castilla, Sr.  
Its: Exec. Dir.;

and

By: Monroe County Housing Authority, a  
general partner

By:   
Print Name: J. Manuel Castilla, Sr.  
Its: Exec. Dir.

WINN-DIXIE PROPERTIES, LLC, a Florida  
limited liability company

By:   
Print Name: Bennett L. Nussbaum  
Its: VICE PRESIDENT.

LEGAL APPROVED  
ATTY: CSA  
DATE: 6/4/08

::ODMA\PCDOCS\SGRJAX\1256352

**EXHIBIT "A"**  
**(SERVICE AREA 4)**

i

Winn-Dixie Properties, LLC/  
Monroe County Housing Authority  
Temporary Wastewater Agreement  
May \_\_\_\_, 2008

City of Marathon  
 Service Area 4  
 Monroe County, Florida  
 39<sup>th</sup> Street to 60<sup>th</sup> Street

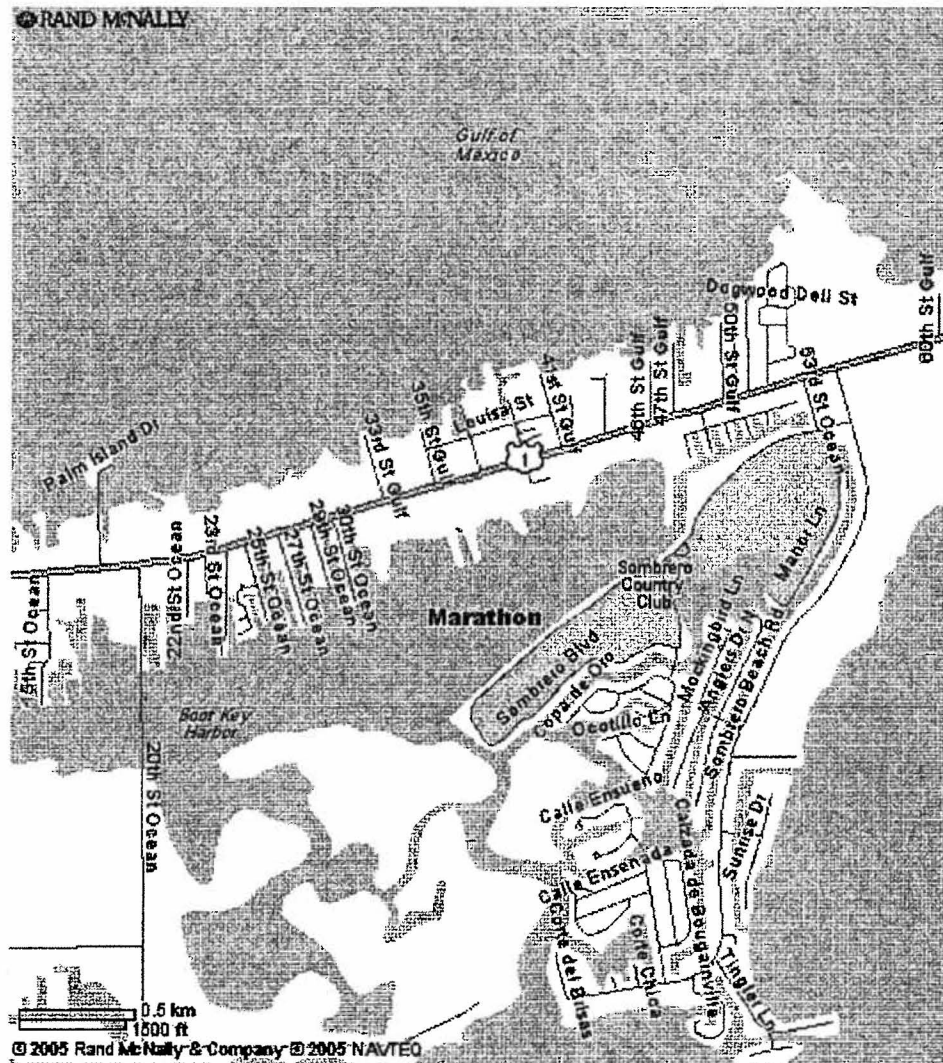


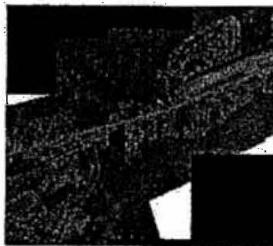
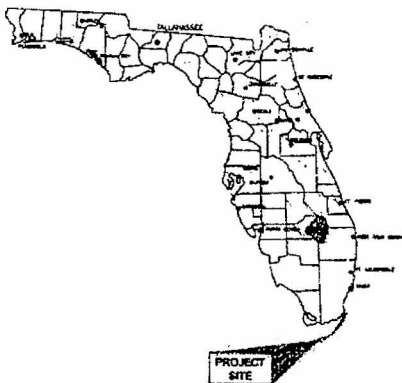
Figure 1 - 5

Service Area 4, Vaca Key (central), includes both ocean side and bayside from 39<sup>th</sup> Street through 60<sup>th</sup> Street as well as all of the Sombrero area. The year 2015 estimated wastewater flows are .399 MGD. The density in this area allows a vacuum collection system to be cost effective. A new .400 MGD nutrient removal wastewater treatment plant will be constructed in this area to provide needed treatment. The effluent disposal will be primarily re-use on the Sombrero Country Club, alternate Class V shallow injection wells will also be provided.

**EXHIBIT "B"**  
**(LIFT STATION SITE)**

CONSTRUCTION PLANS  
FOR SEWER FORCEMAIN  
WINN DIXIE WWTP TO EASTWINDS WWTP

SECTION 15, RANGE 66, TOWNSHIP 32  
MONROE COUNTY, FLORIDA



LOCATION MAP

OWNER

CITY OF MARATHON  
9805 OVERSEAS HIGHWAY  
MARATHON, FLORIDA 33050

PREPARED BY

THE WEILER ENGINEERING CORPORATION  
5800 OVERSEAS HIGHWAY  
SUITE 36  
MARATHON, FLORIDA 33050  
EB # 0656  
(305) 289-4181

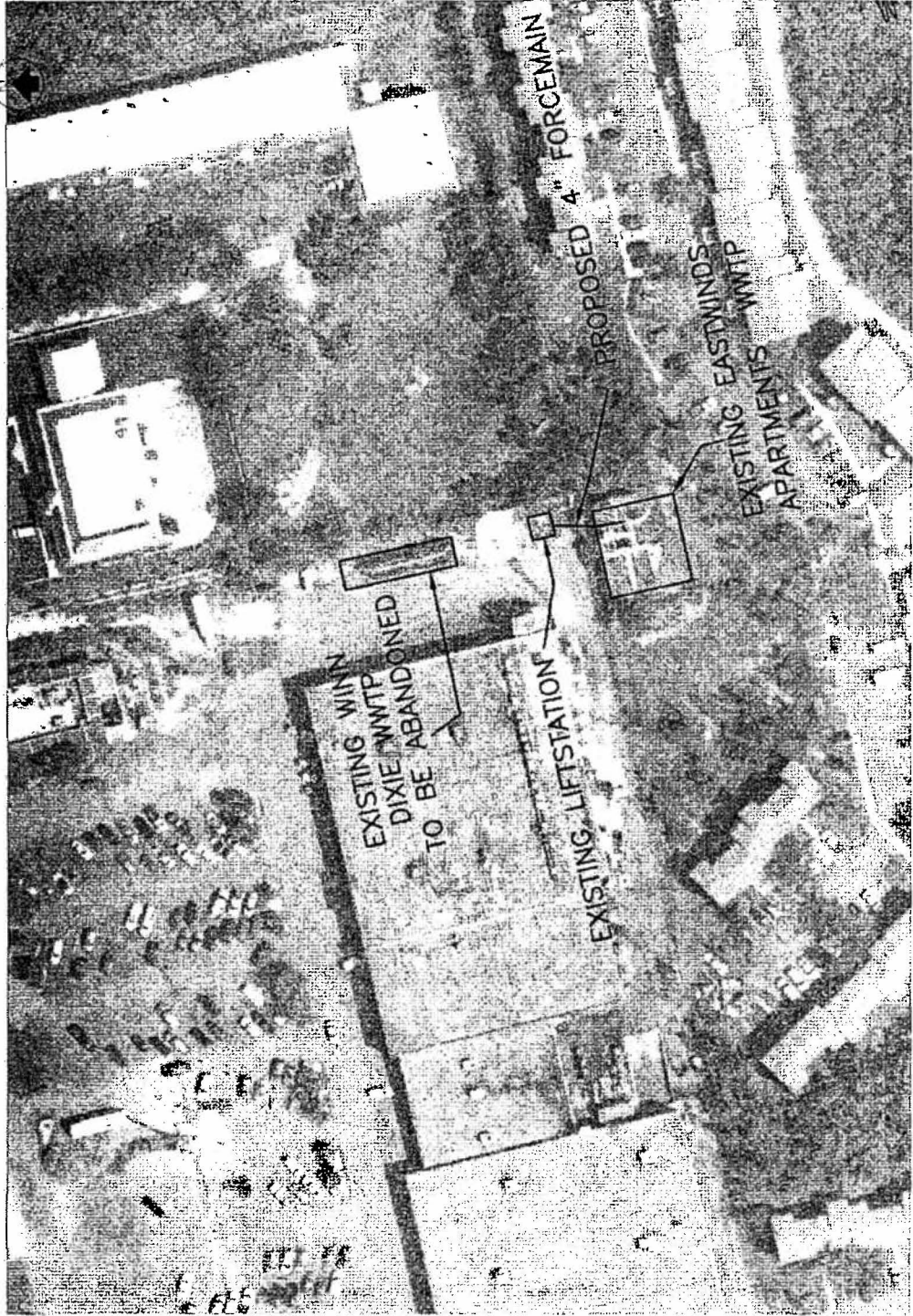
**WEC** THE WEILER ENGINEERING CORPORATION

INDEX OF DRAWINGS

- 1 COVER SHEET
- 2 SITE PLAN

MARATHON

SHEET NO. 1 OF 2  
FILE PROJECT NO.  
DATE



**EXHIBIT "C"**

**(DEP's LETTER)**





Jeb Bush  
Governor

## Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

Colleen M. Castille  
Secretary

**PERMITTEE:**  
City of Marathon  
Mr. Michael Puto, City Manager  
9805 Overseas Highway  
Marathon, Florida 33050  
putom@ci.marathon.fl.us

**Permit Number:** 64082-009-DWC/CG  
**Issue Date:** March 28, 2008  
**Expiration Date:** March 27, 2013  
**Project:** Winn Dixie Force-main  
**Connected to:** Eastwinds Apartments WWTP  
**County:** Monroe

Dear Mr. Puto:

This letter acknowledges receipt of your Notification/Application for Constructing a Domestic Wastewater Collection/Transmission System for the subject project. Our office received the Notice on March 10, 2008, with additional information last received on March 28, 2008. This is to advise you that the Department does not object to your use of such General Permit.

Please note, the attached requirements apply to your use of the General Permit for constructing the proposed domestic wastewater collection/transmission system.

You are further advised that the construction activity must conform to the description contained in your Notification/Application for Constructing Domestic Wastewater Collection/Transmission Systems and that any deviation will subject the permittee to enforcement action and possible penalties.

Sincerely,

---

Abdul B. Ahmadi, Ph.D., P.E.  
Water Facilities Administrator

AA/JLI/mac

Copies furnished to:

Manuel Castillo [castillom@kwha.org](mailto:castillom@kwha.org)  
Edward R. Castle, P.E. [ecastle@weilerengineering.org](mailto:ecastle@weilerengineering.org)  
Gus Rios [gus.rios@dep.state.fl.us](mailto:gus.rios@dep.state.fl.us)

## **REQUIREMENTS FOR USE OF THE GENERAL PERMIT FOR DOMESTIC WASTEWATER COLLECTION/TRANSMISSION SYSTEMS:**

1. This general permit is subject to the general permit conditions of Rule 62-4.540, F.A.C., as applicable. This rule is available at the Department's Internet site at: <http://www.dep.state.fl.us/water/wastewater/rules.htm#domestic> [62-4.540, 5-1-03].
2. This general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required [62-604.600(6)(b)1, 11-4-03].
3. This general permit cannot be revised, except to transfer the permit [62-604.600(6)(b)2, 11-4-03].
4. Upon completion of construction of the collection/transmission system project, and before placing the facilities into operation for any purpose other than testing for leaks or testing equipment operation, the permittee shall submit to the South District Office, Form 62-604.300(8)(b), Request for Approval to Place a Domestic Wastewater Collection/Transmission System into Operation. This form is available at the Department's Internet site at <http://www.dep.state.fl.us/water/wastewater/forms.htm> [62-604.700(2), 11-4-03].
5. The new or modified collection/transmission facilities shall not be placed into service until the Department clears the project for use [62-604.700(3), 11-4-03].
6. Abnormal events shall be reported to the Department's South District Office per Rule 62-604.550, F.A.C. For unauthorized spills of wastewater in excess of 1000 gallons per incident, or where information indicates that public health or the environment may be endangered, oral reports shall be provided to the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519 as soon as practical, but no later than 24 hours from the time the permittee or other designee becomes aware of the circumstances. Unauthorized releases or spills less than 1000 gallons per incident are to be reported orally to the Department's South District Office within 24 hours from the time the permittee, or other designee becomes aware of the circumstances [62-604.550, 11-4-03].
7. The design and construction of the wastewater collection/transmission system shall be in accordance with provisions of Florida Administrative Code (F.A.C.) Rule 62-604 [62-604.300(1) and 62-604.400, 11-6-03].