June 4th

2003
### Key Largo Wastewater Treatment District
**Guest Sign In Sheet**
**Wednesday, June 4, 2003**

<table>
<thead>
<tr>
<th>Name &amp; Title</th>
<th>Representing</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pete Karras, Director Code - Waste Handling</td>
<td>987-357-4808</td>
<td></td>
</tr>
<tr>
<td>2. Walt Messer, Douglas N. Higgins Inc</td>
<td>305-292-7889</td>
<td></td>
</tr>
<tr>
<td>3. C. Fishburn, Antek</td>
<td>305-451-0589</td>
<td></td>
</tr>
<tr>
<td>4. MD Kougmanakis, KL Resident</td>
<td>305-451-0589</td>
<td></td>
</tr>
<tr>
<td>5. Steve Gibbs, Free Press</td>
<td>664-2261</td>
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</tbody>
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20.
Key Largo Wastewater Treatment District
Board of Commissioners Meeting Agenda
4:00 PM Wednesday, June 4, 2003
Key Largo Civic Club
209 Ocean Bay Drive
Key Largo, Monroe County, Florida

A. Call to Order
B. Pledge of Allegiance
C. Additions, Deletions or Corrections to the Agenda
D. Action Items
   1. Approval of Amendment No. 2 to the State Financial Assistance Agreement between KLWTD and FDEP
E. General Manager’s Report
F. Legal Counsel’s Report
G. Engineer’s Report
H. Commissioner’s Items
   1. Discussion regarding the KLP contract with D.N. Higgins, requested by Chairman Tobin
   2. Discussion regarding the KLTV contract with The Haskell Corporation, requested by Chairman Tobin
K. Meeting Adjournment
KLWTD
June 4, 2003

Action Item

D - 1
STATE OF FLORIDA GRANT ASSISTANCE
PURSUANT TO SPECIFIC APPROPRIATION 1765A OF THE 2002 - 2003 GENERAL APPROPRIATIONS ACT (CHAPTER 2002-334, LAWS OF FLORIDA)

This Amendment No. 2 is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as “Department”), the address for which is 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, and the KEY LARGO WASTEWATER TREATMENT DISTRICT (hereinafter referred to as “Grantee” or “Recipient” or “Contractor”), the address for which is Post Office Box 491, Key Largo, Florida 33037, existing as a local government agency under the laws of the State of Florida. The purpose of the amended Agreement is to provide funds for the Key Largo Park wastewater collection system construction.

WHEREAS, Monroe County allocated $1,660,000 of Specific Appropriation 1765A of the 2002 - 2003 General Appropriations Act to assist in the construction of the Key Largo Park wastewater collection system, and such funds were awarded to the Recipient under the previously amended Agreement LP0338;

WHEREAS, Monroe County Resolution 344-2002 provides for the reallocation of $134,822 of the referenced Appropriations to the Key Largo Park project in the event that a private utility project originally designated by Monroe County fails to qualify for funding;

WHEREAS, the originally designated private utility project failed to qualify for such funding; and

WHEREAS, the referenced Appropriations Act provides for an additional award of the $52,490 proportional share of the remaining funds after specified distributions, including the aforementioned reallocation, for qualifying projects;

THEREFORE, in consideration of the mutual benefits to be derived herefrom, the Department awards the additional $187,312 to the Recipient subject to the following stipulations:

1. The Grantee shall perform in accordance with the terms and conditions set forth in the original Agreement and all Amendments and all attachments and exhibits named which are attached thereto or hereto, respectively, and incorporated by reference. However, the disbursement requirements set forth in paragraphs 4 and 5 of Amendment No. 1 are hereby deleted and are replaced by that described in paragraph 3 below. Attachment A – Revision 2 (Project Work Plan) and Attachment B - Revised (Special Audit Requirements) supersede the versions of
those Attachments previously incorporated into the amended Agreement. There is no change to Attachment C (Disbursement Request Form).

2. Paragraph 10.A of the original Agreement is superseded by the understanding that the Grantee shall not subcontract, assign, or transfer any construction services or equipment/material procurement work to be funded under this Agreement as amended without the prior written consent of the Department's Grant Manager. The Department specifically consents to subcontracting with Douglas N. Higgins, Inc. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred, and that the Grantee shall be solely liable to any subcontractor for all expenses and liabilities incurred under the subcontract.

3. There shall be no disbursements under this amended Agreement by the Department prior to the issue by the Recipient of written notices to its contractors to proceed with Federal Emergency Management Agency Phase II construction for Key Largo Trailer Village and the construction portion of the Project Work.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
IN WITNESS WHEREOF, the parties have caused this Amendment No. 2 to be duly executed, the day and year last written below.

KEY LARGO WASTEWATER TREATMENT DISTRICT

By: ______________________________
   Chairman

Date: ______________________________

FEID No.: 83-0344274

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: ______________________________
   Director, Division of Water Resource Management

Date: ______________________________

May 27, 2003

Attest

By: ______________________________

List of attachments/exhibits included as part of this amended Agreement:

<table>
<thead>
<tr>
<th>Specify Type</th>
<th>Letter/ Number</th>
<th>Description (include number of pages)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attachment A</td>
<td>A-Revision 2</td>
<td>Project Work Plan (2 pages)</td>
</tr>
<tr>
<td>Attachment A</td>
<td>B-Revised</td>
<td>Audit Requirements (5 pages)</td>
</tr>
<tr>
<td>Attachment A</td>
<td>C</td>
<td>Disbursement Request Form (3 pages)</td>
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</tbody>
</table>
ATTACHMENT A – REVISION 2

KEY LARGO WASTEWATER TREATMENT DISTRICT
Key Largo Park Subdivision

SECTION A. PROJECT BUDGET

<table>
<thead>
<tr>
<th>Category of Expenditure</th>
<th>DEP Funds FY 02/03</th>
<th>DEP Funds FY 03/04</th>
<th>DEP Funds FY 04/05</th>
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SECTION B. SCOPE OF PROJECT WORK:

A collection system serving the Key Largo Park subdivision will be constructed. The collection system consists of vacuum mains, vacuum pits, buffer tanks, vacuum valves, and gravity lines. While Appropriation 1765A funding is not being provided for the decommissioning of on-site treatment and disposal systems or the installation of building laterals on private property, such work must be undertaken to achieve a functional system. The Grantee must ensure that the work on private property is accomplished in a timely manner. Functioning of the Key Largo Park collection system is dependent upon the construction of a vacuum station, transmission facilities, treatment plant and injection well disposal system that will be part of the Key Largo Trailer Village subdivision wastewater management.
system. Therefore, the Grantee must ensure that all construction necessary for a complete and operable wastewater management system is undertaken in a timely manner.

SECTION C. PROJECT SCHEDULE:

The schedule for completion of the Project Work activities may be adjusted by mutual agreement of the Department and the Grantee. All submittals documenting completion of the activities shall be made by the Recipient’s Grant Manager to the Department’s Grant Manager.

(1) Provide certification of availability of the all Key Largo Park wastewater collection/transmission system sites, including easements and rights-of-way not later than July 30, 2003.

(2) Initiate design work for Key Largo Trailer Village not later than August 15, 2003.

(3) Procure the services of a construction manager not later than September 15, 2003.

(4) Identify number of Equivalent Residential Units to receive wastewater management service in Key Largo Park and in Key Largo Trailer Village not later than October 15, 2003.

(5) Update the above Section A (Project Budget) information, not later than November 15, 2003, based on costs incurred, contract award amounts, and change orders issued. Confirmation of the available Federal, State, and Local funding will be required.

(6) Initiate construction for Key Largo Park not later than November 15, 2003.

(7) Formally adopt District Rules or equivalent legal means for enforcing sewer connections, sewer use requirements, as well the imposition of wastewater utility tariffs and collections not later than March 1, 2004.

(8) Provide certification of establishment of the Municipal Services Taxing Unit not later than March 1, 2004.

(9) Solicit services of operating entity for wastewater management system not later than October 15, 2004.

(10) Provide certification of initial collection of fees, charges, and assessments not later than January 15, 2005.

(11) Complete construction of Key Largo Park facilities not later than January 15, 2005.

(12) Start-up of wastewater treatment plant not later than January 15, 2005.

(13) Complete construction of Key Largo Trailer Village facilities not later than July 15, 2005.

(14) Provide certification of wastewater management system operability not later than April 15, 2005.
ATTACHMENT B - REVISED

SPECIAL AUDIT REQUIREMENTS

The administration of funds awarded by the Department of Environmental Protection (which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement) to the recipient (which may be referred to as the "Contractor", "Grantee" or other name in the contract/agreement) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Comptroller or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends $300,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this agreement indicates Federal funds awarded through the Department of Environmental Protection by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal funds received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

3. If the recipient expends less than $300,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than $300,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds (i.e., the cost of such an audit must be paid from recipient funds obtained from other than Federal entities).

4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at http://aspe.os.dhhs.gov/cfda.
PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(l), Florida Statutes.

1. In the event that the recipient expends a total amount of State awards (i.e., State financial assistance provided to the recipient to carry out a State project) equal to or in excess of $300,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Comptroller, and Chapter 10.600, Rules of the Auditor General. EXHIBIT 1 to this agreement indicates State funds awarded through the Department of Environmental Protection by this agreement. In determining the State awards expended in its fiscal year, the recipient shall consider all sources of State awards, including State funds received from the Department of Environmental Protection, except that State awards received by a nonstate entity for Federal program matching requirements shall be excluded from consideration.

2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapter 10.600, Rules of the Auditor General.

3. If the recipient expends less than $300,000 in State awards in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than $300,000 in State awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from recipient funds obtained from other than State entities).

4. For information regarding the Florida Single Audit Act, including the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the website for the Governor’s Office located at http://sun6.dms.state.fl.us/fsaa/ for assistance. In addition to the above website, the following websites may be accessed for information: Legislature’s Website http://www.leg.state.fl.us/, Governor’s Website http://www.flgov.com/, Department of Banking and Finance’s Website http://www.dbf.state.fl.us/audit/FSAIndex.html, and the Auditor General’s Website http://sun6.dms.state.fl.us/audgen.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: Pursuant to Section 215.97(7)(m), Florida Statutes, State agencies may conduct or arrange for audits of State awards that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State agency must arrange for funding the full cost of such additional audits. This part would be used to specify any additional audit requirements imposed by the State agency that are solely a matter of that State agency’s policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements).)
PART IV: REPORT SUBMISSION

1. Copies of audit reports for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

   A. The Department of Environmental Protection at each of the following addresses:

      Audit Director
      Florida Department of Environmental Protection
      Office of Inspector General
      2600 Blair Stone Road, MS40
      Tallahassee, Florida 32399-2400

   B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

      Federal Audit Clearinghouse
      Bureau of the Census
      1201 East 10th Street
      Jeffersonville, IN 47132

   C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection at each of the following addresses:

   Audit Director
   Florida Department of Environmental Protection
   Office of Inspector General
   2600 Blair Stone Road, MS40
   Tallahassee, Florida 32399-2400

3. Copies of reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

   A. The Department of Environmental Protection at each of the following addresses:

      Audit Director
      Florida Department of Environmental Protection
      Office of Inspector General
      2600 Blair Stone Road, MS40
      Tallahassee, Florida 32399-2400

   B. The Auditor General’s Office at the following address:

      State of Florida Auditor General
      Room 574, Claude Pepper Building
      111 West Madison Street
      Tallahassee, Florida 32302-1450
4. Copies of reports or management letters required by PART III of this agreement shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at each of the following addresses:

Audit Director
Florida Department of Environmental Protection
Office of Inspector General
2600 Blair Stone Road, MS40
Tallahassee, Florida 32399-2400

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapter 10.600, Rules of the Auditor General, as applicable.

6. Recipients, when submitting audit reports to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, Florida Statutes, and Chapter 10.600, Rules of the Auditor General, should indicate the date that the audit report was delivered to the recipient in correspondence accompanying the audit report.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of 5 years from the date the audit report is issued, and shall allow the Department of Environmental Protection or its designee, access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection or its designee, upon request for a period of 3 years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.
ATTACHMENT B - REVISED, EXHIBIT - 1

Funds awarded to the recipient pursuant to this agreement consist of the following:

<p>| Federal Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following: |
|---|---|---|---|---|</p>
<table>
<thead>
<tr>
<th>Federal Program Number</th>
<th>Federal Agency</th>
<th>CFDA Number</th>
<th>CFDA Title</th>
<th>Funding Amount</th>
<th>State Appropriation Category</th>
</tr>
</thead>
</table>

State Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Funds for Federal Programs:

<table>
<thead>
<tr>
<th>Federal Program Number</th>
<th>Federal Agency</th>
<th>CFDA</th>
<th>CFDA Title</th>
<th>Funding Amount</th>
<th>State Appropriation Category</th>
</tr>
</thead>
</table>

State Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following Funds Subject of Section 215.97, F.S.:

<table>
<thead>
<tr>
<th>State Program Number</th>
<th>Funding Source</th>
<th>State Fiscal Year</th>
<th>Catalog of State Financial Assistance Number</th>
<th>CSFA Title or Funding Source Description</th>
<th>Funding Amount</th>
<th>State Appropriation Category</th>
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<tr>
<td>Original Agreement</td>
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<td>2002-2003</td>
<td>37.039</td>
<td>Statewide Surface Water Restoration and Wastewater Projects</td>
<td>$1,660,000</td>
<td>088962d</td>
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<td>Land Acquisition Trust Fund Line Item 1765A</td>
<td>2002-2003</td>
<td>37.039</td>
<td>Statewide Surface Water Restoration and Wastewater Projects</td>
<td>$187,312</td>
<td>088962d</td>
</tr>
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</table>

Total Award $1,847,312

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [http://aspe.os.dhhs.gov/cfda] and/or the Florida Catalog of State Financial Assistance (CSFA) [http://sun5.dms.state.fl.us/feaa/]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.
Minutes  
Key Largo Wastewater District Board  
Wednesday, December 4, 2002  
Key Largo, Florida  

The second meeting of the Key Largo Wastewater District convened at 5:00 P.M. on the above date at the Key Largo Library.

A) Meeting was called to order.

B) All stood for the Pledge of Allegiance.

Present were Commissioner Gary Bauman, Commissioner Cris Beaty, Chairperson Andrew Tobin, Commissioner Charles Brooks, Commissioner Jerry Wilkinson.

D) Approval of Minutes of November 19, 2002, Meeting  
Motion made by Chairperson Tobin approving November minutes.  
Motion seconded by Commissioner Brooks.  
Motion carried unanimously.

F) Action Items

8) Mr. Terry Lewis of the legal firm of Lewis Longman & Walker made a presentation to the Board with associate Amy Dukes.

Mr. Tobin discussed that working with this firm would not be a conflict of interest as he worked with Mr. Lewis’ brother in the past.

Mr. Lewis was previously presented with a work in progress provided from FKAA and asked what would be involved in meeting the March 1, 2003, deadline.

Mr. Lewis stated that the firm will be involved in the development and adoption of Rules of Administration and Rules of Operation to the District now that the Board is a public agency, a political subdivision in the state of Florida designated as a special taxing district by the Special District’s Accountability Act. The firm will also assist in the Board’s budget, Rules of Public Records, sunshine laws, conflicts of interest, interlocal agreements with other agencies.

Mr. Lewis stated that the March 1, 2003, deadline appears to be exceedingly difficult to be able to secure funding until an assessment becomes available. Chapter 197, Florida Statutes, allows an assessment to be added to the tax roll if the Board sends out the bills themselves. Unless the Board is willing to forego Chapter 197, one must plan for facilities and competent engineers in that this levy must benefit landowner that you are taxing. Mr. Lewis feels there is a need for more order to make this process work.

Commissioner Bauman inquired as to the cost of potential legal fees in hiring this firm. Mr. Lewis estimated legal fees could range from $6,500 – $10,000 per month based on the assistance of the firm.
Commissioner Wilkinson asked if they were within the law to go ahead without advertising for engineering. Mr. Lewis indicated that there was a threshold in which they could work and possible declare an emergency.

Commissioner Brooks asked about travel reimbursement and that he would only charge one way. He also stated that teleconferencing worked well in the past.

Motion made by Commissioner Brooks to hire the firm of Lewis Longman & Walker on an hourly basis terminable in 30 days and will look at other legal options.
Motion seconded by Commissioner Wilkinson.
Motion carried unanimously.

Ms. Amy Dukes from the firm of Lewis Longman & Walker introduced herself to the Board. Much of the work would be done by her rather than Mr. Lewis.

E) Status of Key Largo Trailer Village and Key Largo Park Projects

FKAAA discussed that FEMA will want to know how the transfer agreement will work after they are done with the environmental assessment of the sewer plant site. FKAAA needs to remain, as sub-grantee until the process is complete (February timeframe) in order to secure grant funds.

F) Action Items

1) Commissioner Beaty indicated that meeting sites are available at the Westin and Howard Johnsons for workshops.

7) Discussion and approval to advertise public hearings to enact special assessment. Chairman has authority to arrange meeting dates and staff can contact other Board members. Multiple dates will be advertised for future public meetings.

WORKSHOP DATES:
Jan. 7, 8, and 14 @ 2pm at Howard Johnsons Hotel

REGULAR MEETING DATES:
January 15, 2003 at 5:00 p.m., Key Largo Library
January 22, 2003 at 7:00 p.m., Key Largo Library

Motion made by Commissioner Brooks to approve January 2003 meeting dates.
Motion seconded by Commissioner Wilkinson.
Motion carried unanimously.

2) Discussion and interim procedures for preparation of agenda and the dissemination of Committee reports. The County will continue to support the Board and provide assistance as requested through January 2003. All items will be submitted to Mr. McGarry to be placed on an agenda as well as the Internet.
3) Monroe County Commissioner Nelson stated that the terms of the agreement were amended with the following changes to read under the current rate structure: the interest rate will be based on the State Revolving Fund (SRF) rate as adjusted for the length of time for repayment of three years.

Motion was made by Commissioner Brooks to accept the amended Interlocal Agreement.
Motion seconded by Commissioner Bauman.
Motion carried unanimously.

4) Discussion and approval of the use of the $100,000 in loan funds from Monroe County. Item tabled until approval of budget.

5) Discussion and approval to establish bank account. Legal counsel suggested using a local vendor and that this action does not require an RFP. TIB Bank has shown interest in assisting the Board.

Motion made by Commissioner Brooks to establish a bank account.
Motion seconded by Commissioner Beaty.
Motion carried unanimously.

Chairperson Tobin requested the Board reconsider the workshop scheduled as that legal counsel will be able to review all information provided to them. Workshop dates will be set at a later time.

Motion made by Commissioner Brooks to reconsider and rescind workshop dates till future date.
Motion seconded Commissioner Wilkinson.
Motion carried unanimously.

6) Discussion and approval to request Property Appraiser and Tax Collector to extend deadline from January 1, 2003, to March 1, 2003, to allow Board to adopt special assessment.

Mr. Lewis stated that there is a provision in Chapter 197 extending the deadline to March 1, 2003. The Board would need to notify the Property Appraiser and Tax Collector of such and notify those citizens affected and what the improvements are going to be. A specialist would then prepare an assessment roll and tentatively adopt a resolution establishing those assessments.

Once all properties have received notice of the intended assessment, the Board then holds a public hearing adopting the assessment. The Board then goes to the Property Appraiser and puts the assessment on the tax roll.

Motion made by Commissioner Wilkinson to utilize Chapter 197 for the purpose of collecting any assessment that the Board is going to levy for projects in Key Largo.
Motion seconded by Commissioner Bauman.
Motion carried unanimously.
I) Public Input

Mr. Howard Armell, resident of Key Largo Trailer Village stated that he notified the state representative of this meeting and that info was sent down regarding contracts should the Board need any assistance.

F) Action Items

7) Discussion and approval to advertise public hearings to enact special assessment. Item tabled.

9) Discussion and appointment of liaison(s) with FKAA, Monroe County, FEDP, U.S. Army Corps of Engineers, and FEMA/FDEP (Florida Division of Emergency Management). Item tabled.

10) Report on status of request to Representative Sorensen to seek an exemption for the District from the provisions of Chapter 120, F.S. (Administrative Procedure Act). Commissioner Bauman stated the County Commissioner Murray Nelson wrote a letter to Representative Sorensen and that he agreed to move the exemption forward.

11) Discussion of the requirements of Chapter 189, F.S. including action on the designation of registered office and a registered agent and filing such information to Monroe County and the Florida Department of Community Affairs within 30 days of first meeting (Section 189.46). Mr. Lewis to address the above issues and complete necessary paperwork. Legal counsel stated that any public official is required to fill out a financial disclosure form from the Ethics Commission or local Supervisor of Elections by each individual board member.

G) Committee Reports

1) Office/staffing committee report (Commissioner Beaty)
Committee Beaty stated George Scott of Thrifty Rental Car, Tavernier MM 91, has available office space at that location. April 1, 2003 the monthly rental will be $450 per month. Counsel stated a mailing address and a location for the storage of public records is necessary. After further discussion, Commissioner Murray Nelson’s office will continue to be used as temporary office space in the interim.

   Motion made by Commissioner Brooks to use Thrifty Rental Car as storage facility as needed.
   Motion seconded by Gary Bauman.
   Motion carried unanimously.

2) Budget committee report (Commissioner Bauman)
Commissioner Bauman stated he created an overhead budget. Mr. Lewis emphasized that the records have to be audited every year by a professional. Mr. Lewis will send a format on budgeting and give another format to look at.

3) Revenue committee report (Commissioner Brooks) – Item tabled.
4) Technical committee report (Commissioner Wilkinson) – Commissioner Wilkinson wants a qualified engineer to review Boyle Engineering plans to protect the citizens and the Board.

Mr. Dave Refling, Boyle Engineering feels that the Board has the right to employ their own engineering firm to review Boyle’s plans. He indicated that it was customary and reasonable to employ a second engineer for the bid evaluation but it was not customary to employ a second engineer to review the current plans. He further indicated that the FKAA had just approved task authorization for Key Largo Village and Key Largo Park.

Commissioner Bauman feels that Boyle Engineering is fine and that an additional doesn’t need another engineer to review. Estimated cost for a firm to review the plans prepared could range from $5,000 to $50,000.

Mr. McGarry stated the County is paying Boyle Engineering for the work they are doing and trusts their opinion as FKAA is reviewing them. A second opinion could be used to review bids but not sure of where funding comes from. This item to be continued.

Committee reports to carry over to next agenda.

II) Discussion Items

1. Difficulty obtaining information and documents. Item tabled.
2. Employment of part-time person as staff-secretary-clerk. No Action.
3. Comparison of MSTU and special assessment process. Continue to next public meeting.
4. Apportioning the “hook-up” fees to all of Key Largo. Continue to upcoming workshop.
5. Discussion of the need for a specific written plan to meet March 1, 2003, deadline and consequences of not meeting deadline, such as what happens to the $1.6 million grant and what is the impact on the Key Largo Trailer Village project? Continue to public workshop on December 16, 2002.
6. Discussion of suggestion made by Commissioner Wilkinson to request that Monroe County transfer to the Key Largo Wastewater District its share of fund balances, other paid taxes and state revenue sharing funds to support District’s wastewater functions and projects. Legal counsel to review.
7. Discussion of desirability to enter into a sole source contract with a management services firm to provide administrative and operational support to the District. No action.

JANUARY ITEMS:
• Discussion between special assessment and MSTUs.

Meeting adjourned.
KLWTD
June 4, 2003

Minutes

April 9, 2003
DRAFT

Key Largo Wastewater Treatment District
Board of Commissioners Meeting Minutes
4:00 PM Wednesday, April 9, 2003
Key Largo Civic Club
209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Commissioners Present

Andrew Tobin, Chairman
Gary Bauman, Member
Cris Beaty, Member
Charles Brooks, Member
Jerry Wilkinson, Member

Staff Present

Robert Sheets, General Manager
David Miles, Chief Financial Officer
Charles L. Sweat, Director of Operations
Terry Lewis, Legal Counsel
Robert Betancourt, P.E. Engineer
Faith Doyle, Clerk to the Board

Guests Present

Nos Espat, Randazza
Stu Oppenheim, Brown and Caldwell
Pete Kinsley, The Haskell Company
Joe Palerinit, Brown and Caldwell
Robert E. Burt, KLTV Homeowners Association
Jerry Cox, CPH Engineers
David Gierach, CPH Engineers
Steve Gibbs, Reporter, Free Press
Michael Longenecker, Key Largo Resident

A. Call to Order

Chairman Tobin called the meeting to order at 4:03 p.m.

B. Pledge of Allegiance

The pledge was recited.

C. Additions, Deletions or Corrections to the Agenda
DRAFT

Action item D-1 was removed because it is not timely and it was moved to next meeting. Action item D-2 was moved to the end of the meeting. Item E-1 was moved to after the Evaluation Committee report.

D. Action Items

1. Presentation by the General Manager of the Work Plan for Development and Implementation of a Non Ad Valorem Assessment Program for administrative and management costs

   a. Approval of the Work Plan for development and implementation of a Non Ad Valorem Assessment Program

This item was moved to the April 23, 2003 agenda.

2. Presentation by the General Manager of the Professional Consultant Services Agreement by and between K LWTD and Government Services Group, Inc.

   a. Approval of the Professional Consultant Services Agreement by and between K LWTD and Government Services Group, Inc.

Chairman Tobin stated that Legal Counsel deemed the document legally sufficient.

Mr. Robert Sheets commented that the revised document had been delivered last Wednesday personally to the Board members by the Clerk as part of the agenda package for the April 9, 2003 meeting.

Commissioner Brooks stated that he would prefer to discuss this contract in a workshop setting combining the needs for the next six months for management, legal and engineering services.

Commissioner Wilkinson stated that he would like to not engage in a five-year contract for services until the projects get moving.

Commissioner Bauman stated that the agreement presented was a standard professional services contract and for a lump sum and that a contract for services on an hourly basis would cost three times as much.

Chairman Tobin stated that although a workshop setting would provide a forum for further debate he has reviewed the agreement extensively and the requested changes have been made. Chairman Tobin does not believe the management services contract should be dependent on the legal and engineering contracts.

Commissioner Wilkinson stated concern for funding prior to the BOCC's decision on the MSTU. Chairman Tobin suggested tabling the item until a future meeting but having the contract be retroactive to April 1, 2003.

Commissioner Brooks asked if a regular meeting could be reconvened as a workshop. Mr. Terry Lewis stated that it could if the public notice was worded correctly. Mr. Lewis stated
that a regular meeting cannot be interrupted by an ad hoc session and then reconvened back to a regular meeting. Mr. Lewis stated that workshops are to be noticed. Mr. Lewis stated that an informal discussion on the contract at this meeting is acceptable or the Board could carry over the action until the next meeting. Chairman Tobin suggested moving the item to the end of the agenda before deciding to act on it, move it to the April, 23 meeting or to notice a separate workshop. The Board agreed that item E2 would be moved to the end of the meeting.

E. General Manager’s Report

1. Discussion of DEP Agreement LP0338, Amendment No. 1 and KLWTD Resolution 2003-14

Item E 1 was moved to later in the meeting.

Mr. Sheets referred to his memorandum that was forwarded to the Board via email. The memorandum concerned the amendment to the Interlocal Agreement. Commissioner Brooks stated that the current suggested changes could be amended in the future. Chairman Tobin asked Mr. Sheets to articulate the requested changes into a document to be presented to the Board at the next meeting for their consideration and approval.

Commissioner Wilkinson expressed concern that these funds would require repayment to the County; he believes that 304 funds were collected from Key Largo citizens and therefore should not be paid back. Commissioner Beaty asked if the funds in question were included in the pro-forma. Mr. Sheets stated that they had, adding that if there is a pay back it would be from impact funds which are restricted for certain uses. Chairman Tobin asked if there could be a policy established to assist low-income families with impact fees. Mr. Sheets stated it could be considered.

F. Legal Counsel’s Report

Legal counsel, Mr. Terry Lewis stated that the legislation being considered to exempt the KLWTD from Chapter 120 is moving and hopefully will pass soon. Mr. Lewis believes that approximately $50,000 in savings could be realized by the KLWTD from not having to follow the Administrative Procedures Act.

Mr. Lewis then informed the Board that he is the legislative liaison for the Florida Association of Special Districts (FASD) and with over 100 special districts represented it offers seminars and programs and is a valuable resource for information. Mr. Lewis invited the Board to join the association adding that the Florida Department of Community Affairs was currently offering a registration fee scholarship for the FASD annual conference that is being held in June.

**COMMISSIONER BROOKS MADE A MOTION FOR THE KLWTD TO MAKE APPLICATION TO BECOME MEMBERS OF THE FASD. COMMISSIONER WILKINSON SECONDED THE MOTION. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.**

1. Discussion of Gartek’s invoice for additional services
Mr. Lewis stated that after analysis of the Gartek invoice requesting payment of over $27,000 in additional services and Gartek’s contract, the Board should note that the contract was for a flat fee and was capped at $20,000. Per the Board approved contract any amounts requested by the contractor required written work authorizations that were to be approved by the Board prior to the work being done. Mr. Lewis stated that the engineering requested in the contract was for a specific.

Mr. Lewis noted that to hire an engineer for fees that are greater than $25,000 the approved CCNA process must be followed. The Board is not obligated to pay Gartek’s invoice. The Board could pay up to $25,000 and not be in violation of the CCNA law. The Gartek additional services invoice brings the total that would be paid to Gartek in total to approximately $47,000. Mr. Lewis was not aware of any basis for the Board to legally pay the invoice amount requested by Gartek.

Mr. Robert Betancourt of Gartek stated that the original contract was for $20,000 but that a letter was forwarded to the Board explaining that the original contract was to read one set of 100% plans and that they were sent 3 sets of documents on the Key Largo Park project. In addition the letter explained that Gartek was asked to review the RFP and other additional documents. Also, Gartek had responded to numerous requests to be on conference calls and to be a member of the Key Largo Trailer Village proposals Evaluation Committee. These additional services were not anticipated in the original contract. Mr. Betancourt concluded that all of these issues were addressed in the February 14, 2003 letter with a request to be paid for these additional services. Mr. Betancourt respectfully requested that the Board consider the work done as the Board had directed and that Gartek be paid for it.

Commissioner Wilkinson asked if the Board could issue a supplemental contract to cover the additional services because the work had been done for the citizens of Key Largo.

Mr. Lewis stated that the issue is not that the work has been done, but that the Gartek contract was for a not to exceed price for a concise scope of work. If the scope of work became more than what was contracted for then the contract should have been renegotiated or a work authorization issued prior to any additional work commencing. The amount invoiced is double the original contract amount. Chapter 287 states that if an engineer is used that was not selected via the CCNA process the contract amount is limited to $25,000 per project per year. The law was written so that projects would not be piecemealed to stay under the CCNA threshold amount. The only exception to the act is a declaration of purchase during an emergency.

Commissioner Brooks does not want to find fault, but a solution that would result in Gartek being compensated. Commissioner Brooks believes authorizing an additional $5,000 for an emergency would be warranted because the KLWTD Board has been in an emergency situation from the first day the Board was formed.

Commissioner Beaty reviewed the Gartek contract and the specific responsibilities defined had circumstances arise that did not allow Gartek to do the work requested and Gartek was placed in a position that they incurred additional costs.

Commissioner Wilkinson stated that the Board has a fiduciary responsibility to pay because the Board had requested and expected the work.
Commissioner Bauman asked Mr. Lewis if any option stated was legally acceptable. Mr. Lewis stated that the only exception to the $25,000 limit is an emergency. Commissioner Brooks suggested that an additional $5,000 be approved to be paid due to an emergency situation. Mr. Lewis is not aware of any retroactive emergency, which is essentially what the Board is suggesting. Mr. Lewis stated that the law does not specifically prohibit it, however more research on retroactive emergency declarations should be conducted and it must be clear the Board will have to follow the law.

Commissioner Bauman stated that when a contract has a specific scope, any additional work should have been change ordered and presented to the Board for approval. A professional working in the business should know to present a change order for approval.

Commissioner Brooks asked for clarification on emergency situations and if the impending funding deadlines could be considered an emergency in the KLWTD’s case. Mr. Lewis stated it could be a basis to declare an emergency, but it needs to be verified that a retroactive emergency could be done. Mr. Lewis quoted from the act and stated that the CCNA language is not specific on emergencies only that if the emergency is valid and is declared by the entity. Commissioner Brooks would like to see an emergency declared then the Board should establish a procedure that ensures this does not happen again.

Chairman Tobin stated that there is no doubt the work has been done and Gartek has done a great job monitoring another engineering firm and has been outspoken when assisting the Board. However, approving a retroactive emergency when, in his opinion, there was none is not good public policy. Chairman Tobin stated he does not agree with Gartek’s billing practices of billing full rate for attendance of several Gartek staff members being present at the same meeting.

Mr. Betancourt stated that if he would charge for the true hours it would have been greater and he has given free time even though he is not an elected official. Mr. Betancourt stated he is responsible to pay his sub-consultants and he doesn’t have the money and that he is not charging more than what is in the contract.

Commissioner Brooks entertained a motion to declare an emergency. Mr. Lewis stated that a reason for the emergency must be stated for the record. Commissioner Brooks asked if to meet funding deadlines would be an emergency. Mr. Lewis stated that to go forward with this emergency, an amended contract with assigned tasks would be necessary.

Mr. Lewis stated that prior to today he had not received any notification of an emergency or a request for a contract amendment and that it is highly unusual that the first notification to the Board by the contractor was for an amount in excess of $15,000 of the original contract.

COMMISSIONER BROOKS MOTIONED TO DECLARE AN EMERGENCY BECAUSE OF THE TIME CONSTRANTS TO MEET DEADLINES TO RECEIVE FUNDS THAT WOULD BE REAPPROPRIATED AFTER JUNE 1, 2003. Commissioner Tobin stated that he was uncomfortable declaring an emergency without the legal research supporting the action. Mr. Lewis stated that he could research the issue and update the Board. Mr. Lewis stated that he could not give a sound legal opinion on a retroactive emergency without research. Mr. Lewis informed the Board that they could go forward and pay on an amended contract into
the future to address the emergency. A SECOND TO THE MOTION WAS MADE BY COMMISSIONER WILKINSON FOR FURTHER DISCUSSION. Discussion ensued on the specifics of what the amended contract should contain. Mr. Lewis stated that the amended contract should be task by task and a not to exceed amount. Discussion ensued on declaring an emergency. Mr. Lewis stated that the declaration of emergency should state that it required suspension of the CCNA requirements until a specific date; specifically the grant deadline date because due to the time constraints associated with selecting a contractor for the KLTV project, the need for professional engineering advice and the deadline for securing project grant money, the CCNA procedures could not be followed. Discussion ensued on the process in which Gartek was originally contracted.

COMMISSIONER BROOKS WITHDREW THE ORIGINAL MOTION.

COMMISSIONER BROOKS MADE A MOTION TO APPROVE PAYMENT TO GARTEK UPTO THE CCNA EXEMPTION LIMIT OF $25,000. THE MOTION WAS SECONDED BY COMMISSIONER WILKINSON. CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

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<td>Commissioner Bauman</td>
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<td>Commissioner Beaty</td>
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<td>Chairman Tobin</td>
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<td>Commissioner Brooks</td>
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<td>Commissioner Wilkinson</td>
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THE MOTION CARRIED.

Discussion ensued on the members of the contract negotiating team for the KLTV project. Mr. Lewis stated it was typical for the general manager and staff to negotiate a draft contract for the Board’s consideration and approval.

COMMISSIONER BROOKS MADE A MOTION TO DECLARE AN EMERGENCY THAT SUSPENDS THE CCNA PROCESS DUE TO THE TIME CONSTRAINTS IMPOSED ON THE KLWTD TO MEET THE JUNE 30, 2003 DEADLINE FOR FDEP FUNDING. COMMISSIONER WILKINSON SECONDED THE MOTION FOR DISCUSSION.

Commissioners Brooks and Wilkinson stated that Gartek Engineering should be included on the KLTV contract negotiating team. It was stated that again in this situation that due to the time constraints associated with awarding the KLTV and KLP projects procuring a consulting engineer could not be done by the CCNA procedure while attempting to make the deadline for securing the FDEP grant. Commissioner Bauman stated that due to the present additional services issue with Gartek that the negotiation work should be a documented contract amendment identifying specific tasks for a not to exceed price. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

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THE MOTION CARRIED.

COMMISSIONER BROOKS MADE A MOTION PREDICATED ON THE DECLARED MOTION TO AUTHORIZE THE 2ND CONTRACT AMENDMENT STATING THAT GOING FORWARD FROM THIS DATE THAT AN EXPENDITURE OF $6,000 FOR CONTRACT NEGOTIATIONS WAS APPROVED FOR GATEK ENGINEERING DURING THE NEXT MONTH. COMMISSIONER WILKINSON SECONDED THE MOTION. Chairman Tobin asked for any further discussion. Discussion ensued on the need for a negotiation team and to have it in place prior to the vote on this motion. CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

COMMISSIONER BAUMAN  NO
COMMISSIONER BEATY  YES
CHAIRMAN TOBIN  NO
COMMISSIONER BROOKS  YES
COMMISSIONER WILKINSONSON  YES

THE MOTION CARRIED.

Chairman Tobin recessed the meeting at 5:35 p.m.
Chairman Tobin reconvened the meeting at 5:45 p.m.

G. Engineer's Report

The engineer had no other items to discuss with the Board.

H. Commissioner's Items

1. Commissioner Brooks - Status report on the Evaluation Committee

Commissioner Brooks stated that his report would be made with little preparation because the Evaluation Committee concluded it's business and adjourned at approximately 2:45 p.m., April 9, 2003.

Commissioner Brooks stated that the meeting was with the proposers on the KLTV project. The proposers were asked for additional information and those who provided it added to the process. Commissioner Brooks stated that the technical proposals were reviewed and ranked by the Committee and he provided a copy of the summary sheet to the Board. After the proposals were ranked the cost proposals were opened and the results read into the record of the Evaluation Committee meeting. The Committee requested additional cost information. A copy of the KLTV cost summary sheet was provided for the Board.

Commissioner Brooks informed the Board that Harry Pepper and Associates declined to provide additional cost information or to participate in the interview. UEC did not provide additional cost information by the deadline. UEC did arrive to participate at the interview without responding to the Committee's deadline. The Committee gave UEC the opportunity to present the information they brought for the Committee.
Commissioner Brooks stated that the Wharton Smith/CPH and Haskell interviews were very informative and productive.

Commissioner Brooks as Chairman of the Evaluation Committee stated that the Committee recommends negotiating with The Haskell Company/Brown Caldwell & Higgins and if an agreement cannot be reached then staff would negotiate a contract with Wharton Smith/CHP.

The Committee further recommended that the KLWTD would be better served to continue under the present bidding process than to risk re-bidding the projects as a single project.

Discussion ensued on the option of renegotiating the KLP project without re-bidding it or if it could be combined with the KLTV project. Mr. Lewis stated that combining the projects without re-bidding would mostly likely not be possible but options would be looked at. Mr. Sheets asked Mr. Refling to request an extension to the KLP bids. Chairman Tobin requested the contract negotiating team determine if there were any options to combine the projects legally and within the deadline.

COMMISSIONER BROOKS MADE A MOTION SELECTING THE HASKELL COMPANY AS THE VENDOR FOR CONTRACT NEGOTIATION ON THE KLTV PROJECT.
COMMISSIONER WILKINSON SECONDED THE MOTION. COMMISSIONER BROOKS AMENDED THE MOTION TO ADD IF HASKELL NEGOTIATIONS FAIL THEN NEGOTIATIONS WITH WHARTON-SMITH/CPH WOULD BEGIN. COMMISSIONER WILKINSON SECONDED THE AMENDMENT. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.

Commissioner Beaty added that the Committee work was consuming but it resulted in a great deal of information being provided by both vendors. The Committee thanked the vendors present for the time and effort invested by them.

2. Commissioner Brooks - Discussion on the re-bidding of the KLP and KLTV projects

This item was moved to the April 23, 2003 meeting agenda.

Commissioner Bauman and Chairman Tobin thanked the members of the Evaluation Committee for their work.

The Board Clerk was directed to provide notice that the Evaluation Committee meeting scheduled for April 16, 2003 is cancelled because the Committee’s business is finished.

Chairman Tobin then directed the General Manager and Legal Counsel to proceed with contract negotiations for the KLTV project along with the assistance of the design engineer, Boyle Engineering, the KLWTD engineer, Gartek Engineering and Commissioner Brooks. It was the consensus of the Board to have a draft contract brought to the Board for approval as soon as possible.
3. Commissioner Wilkinson - Motion to reconsider approval of DEP Agreement LP0338, Amendment No. 1

Commissioner Wilkinson stated that for the original vote on this item he cast a “yes” however, upon further review of his backup information he discovered he reviewed an incorrect version, would he have reviewed the most recent version of the item he would have voted “no” along with Chairman Tobin.

COMMISSIONER WILKINSON MADE A MOTION TO RECONSIDER DEP AGREEMENT LP0338, AMENDMENT NO. 1. COMMISSIONER BEATY SECONDED THE MOTION FOR DISCUSSION. Commissioner Wilkinson stated concern with the plant site at MM101.5 being approved by FEMA. Commissioner Wilkinson believes it is a possibility that funds won’t be disbursed prior to October 1, 2003. Commissioner Wilkinson wants the October date stricken. The manager was asked where the amendment stood with the FDEP. Mr. Sheets stated that the approved amendment was with Dick Smith of the FDEP, however, it has not been returned to the K LWTD because the Board requested it to be redrafted and the dates extended. Mr. Sheets stated that FDEP has been flexible. A corrected amendment could be sent after the new dates are decided. It was noted that after the Board took action on the amendment Chairman Tobin contacted the FDEP in Tallahassee stating that a drop-dead deadline was not acceptable when the K LWTD was operating in good faith. The FDEP conceded and stated they understand the concerns of the K LWTD. Representative Sorenson was contacted for assistance and he gave assurances that the grant money would not be in jeopardy if a deadline was missed. Chairman Tobin requested that a resolution be acted on that would modify the approved contract amendment to remove the reference to the October deadline. Commissioner Brooks stated that funds have been expended for engineering but the funds were from the 304 money provided by the County. Commissioner Brooks agrees that the October 31, 2003 deadline needs to be removed and the dates in Schedule C amended as previously stated. COMMISSIONER WILKINSON AMENDED HIS MOTION TO RECONSIDER THE CONTRACT (FDEP LP0338) AMENDMENT NO. 1 AND DISCUSS THE PROPOSED REVISIONS WITH THE FDEP AND TO SUBMIT A REVISED SCHEDULE C TO THE FDEP. COMMISSIONER BEATY SECONDED THE AMENDED MOTION. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

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THE MOTION CARRIED.

Chairman Tobin then brought item D-2 back to the floor for further discussion.

COMMISSIONER BEATY MADE A MOTION TO APPROVE THE MANAGEMENT SERVICES AGREEMENT WITH GOVERNMENT SERVICES GROUP. COMMISSIONER BAUMAN SECONDED THE MOTION. Commissioner Wilkinson objected to the terms of the agreement and does not believe the contract should be through 2005. Legal Counsel noted that the agreement has a 90-day termination clause. Commissioner Wilkinson believes
there are too many uncertainties to enter into a lengthy contract. Chairman Tobin stated that the agreement has been redrafted and that GSG has conceded to all requested changes. Legal Counsel stated that the contract is legally sufficient. Commissioner Wilkinson stated that he would prefer a 30-day termination clause. Discussion ensued on other points of the contract. Commissioner Wilkinson believes that there are too many District responsibilities listed and it is restrictive. Commissioner Wilkinson stated that the KLWTD management should be in Key Largo. Commissioner Brooks stated that he also objects to the agreement being through 2005 but he believes the termination clause provides an option to end it before then if necessary, however, he stated concern that it could be terminated without cause and that once terminated the GSG would still be paid for the 90 days. Commissioner Brooks asked what was involved with supervising engineering. Mr. Sheets stated that once an engineer of record is selected by the CCNA process they would need to communicate through the manager instead of directly to all members of the Board. Mr. Lewis stated that generally Boards either have all business routed to the Board via the Manager or they have business routed via the Manager, Legal Counsel and the Engineer. Mr. Lewis stated that from past experience working with various boards that having one source of directions from a manager to the staff is preferred and that in light of all the issues facing the KLWTD Board a simple style of management is necessary at this time. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE, WHICH WAS AS FOLLOWS:

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THE MOTION CARRIED.

Commissioner Brooks stated that that the EPA's request for comments on the Program Management Plan (PMP) have been developed. The point of most concern was the issue of the "unincorporated area of Key Largo" which is now the area to share in the allocation of the 29 million dollars per the PMP as written. Commissioner Brooks believes the issue needs to be resolved so that the allocation remains in Key Largo only as originally planned. COMMISSIONER BROOKS MADE A MOTION TO SUBMIT THE SUGGESTED CHANGES AND THAT THE DOCUMENT SHOULD STATE THE ISLAND OF KEY LARGO VERSUS UNINCORPORATED KEY LARGO. COMMISSIONER BEATY SECONDED THE MOTION. ALL WERE IN FAVOR. THE MOTION WAS UNANIMOUSLY APPROVED.

Chairman Tobin requested a resolution be drafted stating the changes for approval by the Board at a future meeting.

Commissioner Bauman stated that the named projects in the PMP needed to be reviewed and that he would provide comments to Commissioner Brooks as soon as possible.

Chairman Tobin requested that project re-bidding benchmarks be provided to the Board. Mr. Sheets stated that he would meet with the engineers following the meeting to discuss schedules and deadlines.
I. Minutes – February 26, 2003 and March 5, 2003


J. Meeting Adjournment

Chairman Tobin adjourned the meeting at 7:25 p.m.
KLWTD
June 4, 2003

Minutes

April 23, 2003
Key Largo Wastewater Treatment District
Board of Commissioners Meeting Minutes
4:00 PM Wednesday, April 23, 2003
Key Largo Civic Club
209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present
Chairman Andrew Tobin
Commissioner Gary Bauman
Commissioner Cris Beaty
Commissioner Charles Brooks
Commissioner Jerry Wilkinson

Staff Present
Robert Sheets, General Manager, Government Services Group, Inc.
Terry Lewis, Esq., Legal Counsel, Lewis, Longman and Walker, P.A. (via telephone)
Robert Bentancourt, PE, Gartek Engineering
Faith Doyle, Board Clerk, Government Services Group, Inc.

Guests Present
David Refling, P.E. DEE, Boyle Engineering
Walter E. Messer, D.N. Higgins, Inc.
James B. Jones, Roediger Pittsburgh, Inc.
Charles Fishburn, Gartek Engineering
Michael Longenecker, Key Largo Resident
Pete Kinsley, The Haskell Company
Nos Espat, Randazza
Ann Henson, Reporter for the Key Largo Reporter
Steve Gibbs, Reporter for the Free Press

A. Call to Order
Chairman Tobin called the meeting to order at 4:00 p.m.

B. Pledge of Allegiance
The Pledge of Allegiance to the United States of America was recited.

C. Additions, Deletions or Corrections to the Agenda
Mr. Tobin asked the general manager to report on the recent negotiations meeting with FKAA.
Mr. Sheets stated that he and Commissioner Brooks attended the meeting along with representatives of the FDCA, FEMA and FKAA. The FEMA schedule for the Environmental
DRAFT

Assessment or what FEMA refers to as a 'FONSI' Phase I should be signed in July. The KLTV project cannot start until the 'FONSI' Phase II is signed mostly likely in early September. Funds are contingent on the 'FONSI' being approved. The October 31 date becomes moot because it cannot be met due to no fault of the KLWTD.

Mr. Sheets stated that with the Board’s approval he would forward a letter to the FKAA to request reimbursable costs for KLWTD’s sub-contractors for Phase 1 costs. Mr. Sheets stated that only KLTV costs between now and July would be for KLTV Phase 1 engineering. Commissioner Bauman asked for a new timeline. Mr. Sheets stated that the FDEP requires a new Schedule C and that one would be prepared and forwarded once the KLTV and KLP contract negotiations are concluded.

Chairman Tobin requested Item E 6 “Status report on the KLTV contract negotiations” be brought to the floor for discussion. Mr. Sheets referred to his memorandum that had been distributed to the Board at the meeting.

Mr. Terry Lewis, legal counsel, joined the meeting by phone at 4:15 pm.

Mr. Sheets stated that as a result of the meetings with Haskell approximately $550,000 in savings had been negotiated. Discussion ensued concerning the specifics of the memorandum and the attachments to it. The memorandum is made part of this record as “Attachment A”.

Chairman Tobin stated that after the discussion on re-bidding the projects, he was still open to it. Commissioner Bauman asked Mr. Sheets what action was required by the Board to stay on track. Mr. Sheets stated that either the Board needs to approve beginning the negotiation process at the present meeting or at the May 14, 2003 meeting or to act to re-bid the projects at the May 14, 2003 in order to make the June 30, 2003 deadline.

Mr. Reffling reiterated the comments of Mr. Sheets concerning the negotiation team, adding that all members have done an excellent job. Mr. Reffling added that at present it is hard to identify all cost savings options because the KLTV project has not been fully designed yet, it is conceptual, and at the 30%, 60% 90% submittals, more savings could be identified. The benefits of a lump sum contract were discussed. It was noted that one of the major benefits is that the required documentation is less and if any cost savings are realized it is shared between KLWTD and the contractor, but if there are overages (not as a result of an owner requested change order) the contractor absorbs them. Mr. Sheets noted that although the documentation requirements are less, the KLWTD does not give up any audit rights.

Chairman Tobin asked about reduction to the number of valves and how the design continues to be refined. Mr. Reffling stated that the companies looked at the conceptual design and gave initial cost saving ideas after entering the negotiation process and that Haskell’s engineers have looked at the concept in the Park and have identified where there is potential for adding a gravity system at the end of some lines. Mr. Pete Kinsley of Haskell added that all parties are concerned with proper design, especially Haskell, because they are contracted to guarantee an operating system.
Discussion ensued as to where pits would be located and if there would be stubs for undeveloped lots. Mr. Refling stated that there would be an exhibit to the contract demonstrating that all future building lots would be connectable to the system.

Chairman Tobin asked that Mr. Refling explain in detail all eleven points stated in Mr. Sheets' memorandum.

Mr. Refling stated that item one concerning sales tax savings is not an addressable issue at present. The amount stated was an estimate and could be used if feasible, however the amount was not included in Haskell's 'best and final' price. The sales tax issue can be decided at a later time and is contained in the contract documents.

Mr. Refling stated that item two concerning the use of Airvac or Roevac as vacuum system supplier is something that he personally needs more information on to make a decision. Mr. Fishburn added that Haskell feels comfortable with both so competition could result in savings. Mr. Refling added that there is time to look at it further.

Discussion on the bottom line savings ensued. Mr. Fishburn stated that directional boring may provide benefits and potential savings but there are concerns with the technology. Mr. Kinsley commented that in their experience the technology is good for force mains and cables, but a vacuum system needs to be done on a slope. Mr. Walt Messer of Higgins has done boring but not for gravity lines and believes there is too much risk to be ignored. Commissioner Tobin stated that if the technology is available that the engineers need to look at it and decide. Mr. Refling stated that he is not convinced yet because of the complexity of this system and the field conditions make it complicated and it may not work. Commissioner Wilkinson doesn't believe it would work with Airvac. Discussion ensued on the process. Chairman Tobin asked if the technology could be tested in the area. Mr. Messer suggested the U.S.1 cut across would be a good place to try it due to its proximity to the plant. Chairman Tobin asked who makes the decision to do it. Mr. Kinsley stated that KLWTD would suggest it and the contractor would decide due to liability issues, adding that all members must be comfortable so the warranty is enforceable. It was noted that the FDOT would not permit a total closing of U.S. 1 to complete the cut across.

Discussion ensued on the use of USBF, and Mr. Kinsley stated that there would be no significant cost savings on installation but the maintenance is less.

Commissioner Wilkinson asked for clarification on what spare parts would be eliminated. Mr. Refling stated that they are whole valves, but there are spare parts in both contracts and it was a duplication of effort and they are not needed for both projects.

Commissioner Bauman asked if the construction management services were being reduced. Mr. Sheets stated that $300,000 was programmed in for KLP and after talking to staff there is a commitment that $150,000 would cover it.

Commissioner Beaty questioned the reasoning for the $50,000 reduction on the U.S. 1 crossing. Mr. Messer spoke with Mike Reese of the FKAA who verified that FDOT doesn't require casing so the savings are on the casing and that this would be confirmed when a permit application is filed.
Commissioner Brooks commented that going through contract negotiations for the first time is tiring and time consuming but rewarding and he believes the KLWTD is in a win/win situation. Commissioner Brooks stated that there is nothing but benefits for the KLWTD if the Board moves forward. He stated that with all the concessions given by Higgins and Haskell, there is cash in the bank. He stated that he recommends KLWTD go forward with the negotiations with Haskell.

Commissioner Brooks made a motion to follow the recommendations as specified on page 3 of Mr. Sheets’ memorandum. Commissioner Tobin stated that he is not at Commissioner Brooks’ comfort level and would like to continue discussion. Commissioner Brooks stated that if the Board does not move in this direction and attempts a re-bid it is uncertain if they would be lower and they could be higher. Commissioner Brooks was also concerned a re-bid could jeopardize the $1.66 million from FDEP. Chairman Tobin asked for reaffirmation that the process should go forward.

Mr. Terry Lewis stated that a motion to go forward as quickly as possible with Haskell negotiations was acceptable. Then the next item for the Board to consider would be to determine the low bidder for the KLP and motion for award. Mr. Lewis stated that at that point, in his opinion, the Board would be able to discuss simultaneous negotiations with Haskell and Higgins. Mr. Lewis stated that the negotiation team has done competent work. Chairman Tobin stated that he was comfortable with the legal opinion provided. Commissioner Brooks withdrew the motion on the floor.

Chairman Tobin recessed the meeting at 5:35 p.m.

Chairman Tobin reconvened the meeting at 5:45 p.m.

Chairman Tobin called the next item of business, an additional item, to be named action item D 4, the consideration of the apparent low bidder for the KLP project. Chairman Tobin requested that the letter of recommendation be presented for ratification at the next meeting. Chairman Tobin asked Mr. Refling to reiterate what was contained in the recommendation letter. Mr. Refling stated that the KLP project was based on a design/bid/build set of documents and bids were received based on a base bid and two alternates. The RFP specified that consideration would be on the lowest responsive, responsible bidder on the base bid only. D.N. Higgins was low bidder and lowest responsive, responsible bidder and Boyle Engineering recommends D.N. Higgins for award of the base bid.

Mr. Lewis suggested a motion to select Higgins as the apparent low bidder contingent on Higgins negotiating to determine cost savings by integrating the projects. Mr. Messer of Higgins asked if integrating the projects meant doing them both together. If so Higgins
agreed. Commissioner Brooks asked for confirmation of DEP restrictions on combining projects. Mr. Sheets stated that the contract would need to be carefully constructed because of DEP procurement policies and the fact that the $1.66 million can only pay for KLP components. Mr. Sheets stated that because these are federalized due to the FEMA involvement we need to keep them informed. Mr. Lewis suggested the verbiage ‘negotiate simultaneous contracts’. Commissioner Wilkinson objects due the fact that Higgins’ position would be strengthened and Haskell’s weakened. Mr. Lewis explained that the selection of Higgins as low bidder would be conditional on successful concurrent negotiations to get the lowest price possible, and if the negotiations fail, the Board would be in the position to re-bid.

THE MOTION WAS MADE BY COMMISSIONER BROOKS AS SUGGESTED AND SECONDED BY CHAIRMAN TOBIN. Discussion ensued on how the continued negotiations would be handled. Mr. Messer of Higgins asked if the KLP was a bid process and not a design build, how do you negotiate a low bid. Mr. Refling stated for clarity that what he believes Mr. Lewis said was once these motions are made and approved then the Board would motion for the negotiation team to meet and this would permit all parties to talk and take all factors into consideration. Mr. Lewis affirmed Mr. Refling’s statement.

COMMISSIONER BROOKS MADE A MOTION TO SELECT D.N. HIGGINS AS APPARENT LOW BIDDER CONDITIONED ON SUCCESSFUL CONCURRENT NEGOTIATIONS WITH D.N. HIGGINS AND HASKELL TO LOWER THE OVERALL COSTS OF THE INTEGRATED PROJECTS. IF THE NEGOTIATIONS ARE UNSUCCESSFUL THE BOARD MAY REJECT THE BIDS. COMMISSIONER BAUMAN SECONDED THE MOTION FOR DISCUSSION. Chairman Tobin stated that this brings two projects together that never should have been separated. Commissioner Bauman added that if the contract is achieved then we could look at adjusting the work by change order. CHAIRMAN TOBIN CALLED FOR FURTHER DISCUSSION.

Commissioner Wilkinson had concerns with premature selection of Higgins without the KLTV contract being final. Chairman Tobin stated that he still had concerns but this looks like a more efficient way to move forward. Discussion ensued concerning if the Board had the right to re-bid until a contract is signed. It was noted that re-bid would still be possible but the purpose is to come back with contracts for Board approval as soon as possible. Mr. Sheets assured the Board that the negotiation team would go slow so that all parties have no regrets after signing, while keeping within the deadlines. Mr. Sheets stated that if the Board makes the decision it would provide him with the information to revise Schedule C with reasonable deadlines. Chairman Tobin asked when draft contracts could be expected. Mr. Sheets stated that possibly by May 14th a draft for review with action at the May 28th meeting unless a special meeting is called. Mr. Sheets stated that with three weeks between today and the May 14th meeting it could be done. Mr. Lewis suggested the Board notice a special meeting on the 21st and if it is not needed then it could be cancelled.

CHAIRMAN TOBIN CALLED FOR A VOTE WHICH WAS AS FOLLOWS:

| COMMISSIONER BAUMAN  | YES           |
| COMMISSIONER BEATY  | YES           |
| COMMISSIONER BROOKS  | YES           |
| COMMISSIONER WILKINSON | NO         |
| CHAIRMAN TOBIN       | YES           |
THE MOTION CARRIED.

Action Items

1. Approval of the Work Plan for Developing and Implementation of a Non Ad Valorem Assessment Program for administrative and management costs

Chairman Tobin informed the Board that John Dent, attorney for the Monroe County Property Appraiser, called him concerning a potential problem with the KLVTD MSTU request that is on the May 19, 2003 BOCC agenda. Legal Counsel will verify that in February the KLVTD had communicated with the Tax Collector who indicated that the deadline had been met. Mr. Lewis stated that Chapter 200 the 'TRIM' statute has a section that says MSTU taxes on a tax role need to be created prior to January 1. But, the same section states that the deadline doesn't apply if the MSTU is to be created in an area to be served by a special taxing district. MSTU creation should not be a problem in Mr. Lewis' opinion. Mr. Lewis will contact Mr. Dent to remind him that this point has been researched. Mr. Lewis does not feel there is any prohibition to creating an MSTU. Chairman Tobin stated that this work plan relates to the MSTU being approved. Commissioner Brooks stated that the non ad-valorem process should be initiated after the MSTU decision to avoid incurring costs. Chairman Tobin asked what the deadline was for special assessment. Mr. Sheets stated that notice is required to meet the uniform information act, which includes getting the role prepared and holding a public hearing by September 15, 2003.

COMMISSIONER BEATY MADE A MOTION TO TABLE THE ITEM UNTIL THE BOCC ACTS ON THE MSTU. COMMISSIONER BAUMAN SECONDED THE MOTION. ALL WERE IN FAVOR AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Approval of Gartek, Engineering Corporation additional services request for KLTV Contract Negotiations Phase

Mr. Lewis stated that at the last meeting the Board approved changing Gartek's contract to the maximum amount permissible per the CCNA laws. The Board also declared an emergency and authorized the spending of an additional $6,000 for Gartek to participate in the KLTV contract negotiations. The only pending issue is on the retroactive amount over and above the $25,000 CCNA threshold. Mr. Lewis has conducted the research requested by the Board and did not find case law to support retroactive emergencies.

Chairman Tobin asked for discussion the item. Commissioner Brooks stated that he was concerned because he had made the motions and he is upset that an email after the fact had resulted in an additional change in the contract. Commissioner Brooks stated that as far as the legal handling of resolutions after a motion is made, a resolution should be drafted and reviewed for legal sufficiency. Commissioner Brooks stated that he then received an email from Ms. Dukes (legal counsel) containing the Gartek amendment to contract that incorporated changes to the motions already made and passed by the Board. Mr. Lewis stated that he did not recall reviewing any resolutions and if the contract does not reflect what the Board would like it could be corrected. He added that no intent to negate the actions of the Board was intended. Commissioner Brooks quoted Section 1.02.E concerning duplicate payments. Commissioner Brooks believes this to be a major change in his mind.
and it was disturbing to him that the email that resulted in this change should also be a public record.

Commissioner Brooks stated that during the discussion prior to voting on his motions on the Gartek issue, as he recalls from his own memory and the draft minutes provided by the clerk, that the increase of $5,000 was a change to the original contract and should be a separate amendment. Mr. Lewis stated that there is no legal purpose in separating them. Commissioner Brooks stated his intention for the emergency declared was for the purpose of retroactively paying the balance to Gartek for the additional $27,000. Commissioner Brooks reiterated that his intent was to okay the payment of additional services. Commissioner Brooks stated that his next motion was to approve the additional $6,000 to Gartek to participate in the negotiation process for the KLT project award and it was his understanding that this was to be a contract amendment. Commissioner Brooks believes the beginning of the emergency was November 19, 2002.

Mr. Lewis stated that he could find no basis in law to declare a retroactive emergency and that after reviewing case law, Gartek should have presented a change order and that even with a change order the Board by law could not approve anything above $25,000 without a bonafide emergency. Mr. Lewis stated that there is no case law that would support payment of the unapproved additional services. Discussion ensued on the case law concerning overages to a contract. Mr. Lewis stated that if the Board was aware of the work, the Administrative Procedures Act (which Mr. Lewis noted that the KLT project was under presently) states that the declaration of an emergency must be from a period in time going forward. Mr. Lewis found no basis in law that demonstrates an emergency could be declared retroactively. Mr. Lewis understands the dilemma faced by the Board but can give no support from the law in support of the Board's decision. Commissioner Brooks asked directly if Mr. Lewis could provide support that the Board could not pay it. Mr. Lewis stated that before paying it the Board could request an opinion from the State Attorney General. Commissioner Brooks reaffirmed that the next step would be to ask for an A.G.O. Mr. Lewis answered in the affirmative but does not believe the opinion would result in a positive answer. Mr. Lewis would not advise the KLT project to spend the money. Commissioner Brooks stated that the amendment in front of the Board should be approved so that Gartek would be compensated for the $5,000 and the additional $6,000, however he would like to find a legal way to pay the $27,000 in additional services. Commissioner Brooks asked if Gartek would still be paid the $5,000 if the amendment was not approved. Mr. Lewis stated that the $5,000 could be paid because the Board approved the motion, however a contract amendment is ultimately required. Mr. Lewis stated that the Board could approve the amendment with the suggested changes.

The Chairman asked for additional comments from the Board.

Commissioner Bauman stated that the discussion of the Gartek additional services request was presented as a legal discussion item and not as an action item and that in his opinion Commissioner Brooks made three motions that the Board had no time to review.

Commissioner Beatty stated that the agreement is sufficient. He questioned the Board's ability to pay the additional services if a change order was approved by the Board. Commissioner Beatty stated that he agreed that Gartek should be paid for the additional services and that the Board should continue to try and find the means to do so.
Commissioner Tobin stated that to go back to the reason for contracting with Gartek it was by request of Commissioner Wilkinson who wanted another engineering opinion to improve his comfort level with the information provided by the FKAA. Chairman Tobin asked Mr. Refling at that time if it were reasonable to have an additional engineering opinion.

Chairman Tobin recalled that Mr. Refling agreed that two engineers were reasonable for the KLTV project because it was a design/build project. Mr. McGarry indicated that the expenditure for the additional engineering was possible.

Chairman Tobin stated that after speaking with Robert and Chuck at length that he agrees they are doing good work for the KLWTD, however, the legality of a retroactive emergency and asking for an A.G.O. could cause the KLWTD more expense and embarrassment. Chairman Tobin recalled that the emergency was to be based on legal research to determine if there could be a retroactive emergency. Chairman Tobin stated that he was concerned with any contractor double billing and that double billing was addressed in the contract amendment because of his concerns with being charged for the attendance of both Chuck and Robert on the invoices in question. Chairman Tobin stated that he wants to be fair and to do what is right and if there are circumstances that warrant the charges for two staff members' attendance they should be pre-approved. Chairman Tobin noted that the KLWTD does not have the extra money in the budget and that Gartek is looking at reducing their bill. Chairman Tobin also stated concern with the use of sub-consultants because the Board has no privities with Gartek’s sub-consultants. Chairman Tobin concluded that the Board is aware that Gartek’s work is good but the Board has to struggle with setting bad precedent by passing a retroactive emergency if there is not legal authority to do so.

Chairman Tobin would support only paying critical services that were helpful to the KLWTD and to pay them from grant money for engineering services only.

Commissioner Brooks stated that his issues include making changes to an already approved ‘resolutions’ via email, the $5,000 increase to the original $20,000 contract, the declaration of an emergency, and the additional $6,000 for contract negotiations. Commissioner Brooks stated that no motion was made by the Board to put in the amendment that Gartek would receive no payment for two staff members being present and it is improper to add or take away from the intent of a motion. Commissioner Brooks quoted from the draft April 9, 2003 minutes. Stating that his point was that this legal opinion was not part of his motion. Mr. Lewis apologized for being the one who presents problems but added that he cannot make up the law to support an action.

Commissioner Wilkinson stated he as technical committee chair was not aware of the invoice amounts or that the CCNA threshold of $25,000 had been exceeded. He feels Gartek should be paid, if not retroactively it should be paid from the FKAA engineering funds. Commissioner Tobin believed that the original $20,000 had been approved by the FKAA. Mr. Sheets stated that he would explore getting reimbursed for costs incurred on these projects with Phase I moving forward.

Commissioner Bauman stated that he doesn’t recall anyone on the Board being assigned to review invoices for Gartek nor should the Board take any blame for the situation. He believes it is the vendor’s responsibility to get change orders for their work. The original
contract was a $20,000 fixed fee, not-to-exceed contract and that Gartek is a professional services firm and to over-bill by $22,000 is a problem.

Commissioner Brooks quoted again from the April 9, 2003 draft minutes. Chairman Tobin stated that you cannot debate recollection and if the motion was recalled wrong it should be restated and the vote taken again.

COMMISSIONER BROOKS MOTIONED TO APPROVE THE AMENDMENT WITH THE STRIKING OF SECTION 1.02.E SECTION Commissioner Brooks asked for an explanation of the last whereas clause. Mr. Lewis stated that it was his understanding of the amended contract. Commissioner Brooks stated that it was his intent for the emergency to be retroactive and it is not. Mr. Lewis stated that the Board could vote to approve the amendment while striking the last whereas. COMMISSIONER BROOKS CONTINUED HIS MOTION ADDING AND STRIKING THE LAST WHEREAS CLAUSE. COMMISSIONER WILKINSON SECONDED FOR DISCUSSION. Chairman Tobin believed Section 1.02.E should stay because striking it sets precedent for vendors to double bill. It doesn’t say we won’t pay if double billing is warranted it just gives us the right to determine if it is valid. Chairman Tobin stated that by taking it out it would open the door to be double billed. Discussion ensued on what the definition of double billing was. Commissioner Bauman asked if the $6,000 for contract negotiation was a fixed price not-to-exceed $6,000. Mr. Lewis confirmed that it was a not-to-exceed price of $6,000. COMMISSIONER BROOKS RESTATED HIS MOTION TO STRIKE SECTION 1.02.E FROM THE GARTEK CONTRACT AMMENDMENT. COMMISSIONER WILKINSON SECONDED THE MOTION. CHAIRMAN TOBIN ASKED FOR FURTHER DISCUSSION. THERE BEING NONE HE CALLED FOR THE VOTE.

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THE MOTION FAILED BY A VOTE OF THREE AGAINST AND TWO IN FAVOR.

COMMISSIONER BROOKS MADE A MOTION TO STRICK THE LAST WHEREAS CLAUSE FROM THE GARTEK CONTRACT AMENDMENT. COMMISSIONER WILKINSON SECONDED THE MOTION. CHAIRMAN TOBIN ASKED FOR DISCUSSION. Chairman Tobin asked if the 'whereas' should be stricken or should it read as an affirmative declaration of a retroactive emergency. COMMISSIONER BROOKS RESTATED HIS MOTION SO THAT THIS EMERGENCY BY THE DISTRICT BOARD SHALL BE CONSIDERED TO APPLY RETROACTIVELY. COMMISSIONER WILKINSON SECONDED THE RESTATED MOTION. Commissioner Wilkinson stated that if this is declared a retroactive emergency the Board still needs to deal with the additional services bill and someone should be designated to sit down with Gartek and bring back a final invoice amount. CHAIRMAN TOBIN ASKED FOR FURTHER DISCUSSION. THERE BEING NONE HE CALLED FOR A VOTE.

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THE MOTION CARRED.

Chairman Tobin asked if legal counsel could take the lead on discussing the invoices with Gartek. Commissioner Bauman stated that he had a problem with legal doing the review. Mr. Sheets stated that the CFO David Miles would be more appropriate.

COMMISSIONER WILKINSON MADE A MOTION TO APPROVE THE AMENDED CONTRACT WITH GARTEK. COMMISSIONER BEATY SECONDED THE MOTION. WITH NO FURTHER DISCUSSION CHAIRMAN TOBIN CALLED FOR A VOTE.

COMMISSIONER BAUMAN NO
COMMISSIONER BEATY YES
COMMISSIONER BROOKS YES
COMMISSIONER WILKINSON YES
CHAIRMAN TOBIN NO

THE MOTION CARRED.

Chairman Tobin recessed the meeting at 7:30 p.m.

Co-Chairman Wilkinson reconvened the meeting at 7:40 p.m.

3. Approval of the Pending Payments Schedule

Mr. Sheets presented the Pending Payments Schedule and noted that the Gartek payment of $5,000 was included. Mr. Sheets stated that an additional payment needed to be added for $175.00 payable to the Florida Department of Community Affairs for K LWTD annual special districts fee.

COMMISSIONER BEATY MOTIONED TO APPROVE THE PENDING PAYMENTS SCHEDULE WITH THE ADDITION OF THE $175.00 PAYMENT TO THE FDCA. COMMISSIONER BROOKS SECONDED THE MOTION. CO-CHAIRMAN WILKINSON ASKED FOR ANY DISCUSSION. WITH NO FURTHER DISCUSSION ALL WERE IN FAVOR AND THE MOTION CARRIED.

D. General Manager’s Report

1. State of Florida Commission on Ethics Statement of Financial Interests

Mr. Sheets stated that this item required no action from the Board if the members had previously filed an ethics statement with the clerk of courts. The clerk would be forwarding a list of the K LWTD Commissioners to the Commission on Ethics per their request.

2. Interim Financial Reports for K LWTD as of March 31, 2003
Mr. Sheets stated that this item was informational and that no Board action was required.

3. Status Report/Discussion regarding the final amendment to the Inter-Local Agreement between the County, FKAA and District

Mr. Sheets stated that the information presented would be drafted into a letter to be forwarded to the BOCC attorney requesting these changes to the agreement and requesting that they be considered by the BOCC at their May meeting.

4. Status Report Florida Association of Special District membership and Florida Department of Community Affairs FASD Annual Conference Scholarship

Mr. Sheets stated that the Special District Association offered a pro-rated membership fee to the KLWTD and that an application for a scholarship for registration fees to attend the annual conference in early June had been submitted. Mr. Sheets stated that it was highly suggested that KLWTD members attend.

5. Status report on the Consulting Engineering Services Request for Qualifications - CCNA process

Mr. Sheets stated that no action was necessary on this item and that the list of vendors that had requested or been forwarded submittal packages was being provided for informational purposes.


Mr. Sheets stated that this item had been covered in previous discussion.

7. Status report on the Amendment No. 1 to DEP Agreement LP0338 – Revised Schedule C

Mr. Sheets stated that a revised Schedule C would be provided at the May 14, 2003 meeting.

Mr. Sheets requested that the Board consider holding a budget workshop prior to the May 14, 2003 meeting to discuss the FY2004 KLWTD Budget. It was the Board’s consensus to hold the budget workshop beginning at 3:00 p.m. at the Key Largo Civic Club on May 14, 2003 and for a public notice to be issued.

E. Legal Counsel’s Report -- NONE

There were no other legal counsel items to be discussed.

F. Engineer’s Report

There were no other engineer’s items to be discussed.

G. Commissioner’s Items

1. Commissioner Brooks – Discussion on the re-bidding of the KLP and KLTV projects
DRAFT

Commissioner Brooks stated that due to the earlier discussion the item should be tabled.

2. Commissioner Brooks – Discussion of comments submitted for the EPA’s PMP

Commissioner Brooks requested the item be tabled until the May 14, 2003 meeting.


Commissioner Bauman stated that he had no further comments on this issue.

H. Minutes – March 26, 2003

COMMISSIONER BROOKS MADE A MOTION TO APPROVE THE MARCH 26, 2003 MINUTES. COMMISSIONER BEATY SECONDED THE MOTION. CHAIRMAN TOBIN VOTED NO. THE MOTION CARRIED.

I. Meeting Adjournment

Commissioner Brooks made a motion to adjourn. Commissioner Beaty seconded the motion. All were in favor. The meeting was adjourned at 8:10 p.m.
MEMORANDUM TO THE BOARD

TO: BOARD OF DIRECTORS
CC: TERRY LEWIS, AMY DUKES, CHARLES SWEAT, FAITH DOYLE
FROM: NEGOTIATING TEAM
SUBJECT: KEY LARGO TRAILER VILLAGE NEGOTIATIONS
DATE: 4/23/03

At our last regularly scheduled Board meeting, the Board ranked the Haskell Company as the number one ranked firm for purposes of contract negotiation for the Key Largo Trailer Village Project. The Board directed the General Manager to head this negotiation and form a team that consists of Commissioner Charles Brooks, representatives from Gartek, Boyle Engineering, GSG and Lewis, Longman and Walker.

The negotiating committee had numerous phone conferences to discuss negotiating strategy and has met with Haskell on two occasions. The first was Tuesday, April 15th and the final meeting was on Monday, April 21st. Haskell, at the April 21st meeting had representatives from Brown and Caldwell and Higgins, Inc.

As a result of those negotiations, the following reductions were offered by Haskell as an agreed upon reduction in the Guaranteed Maximum Price (GMP) of their $8,443,203 proposal:

1) Sales tax savings if the Board will purchase all major equipment, piping and pumps. The Haskell team offered to prepare all submittals and associated paper work. The Board will have to review their submittals and authorize a purchase order under the KLWWTD name. Haskell estimated a $50,000 savings for plant equipment and a $25,000 savings for vacuum system materials, for a total of $75,000.

2) Equipment cost savings if Haskell has the option to use Airvac or Roevac as the vacuum system supplier. The total savings of $75,000 for this substitution.

3) Spare parts savings for the vacuum system. Currently there are spare parts in the KLTV and KLP projects, and only one set is necessary. Haskell offered a savings of $25,000 to eliminate spare parts from their scope.

4) Elimination of the trailer-mounted vacuum pump for testing the vacuum system. Only one is required for both projects assuming close coordination between the KLTV and KLP. Haskell offered a savings of $20,000.

5) Reduction of vacuum system supplier representative services. Haskell believes that savings can be realized by reducing the on-site inspections quoted by the suppliers.
Although they had not received confirmation, Haskell indicated that they are standing by their estimate of a $30,000 savings for this item.

6) Reduction of the landscaping scope that was assumed in their estimate. Haskell offered a savings of $25,000.

7) Elimination of a “double-counting” error that they made when their cost proposal was prepared. Apparently, the cost of the vacuum pumps was inadvertently included twice. Haskell offered a $35,000 savings for this item.

8) Elimination of the Owner’s trailer. Haskell offered a savings of $15,000.

9) Reduction in costs of the collection system by incorporating gravity at some locations within the KLTV, similar to the KLP design, and further minimizing the number of vacuum valves and pits. Haskell offered a savings of $150,000 utilizing this approach.

10) Optimization of the U.S. 1 crossing. Utilizing an open cut similar to that which was allowed by the Florida Department of Transportation (FDOT) for the Little Venice project, savings should be realized. Higgins confirmed this and offered a $50,000 savings.

11) Haskell has reduced the Guaranteed Maximum Price an additional $50,000 in consideration of a lump-sum contract. Total Savings $550,000.

These savings are estimates. Actual savings will depend upon final contract negotiations and other issues that cannot be addressed until detailed design is underway.

These savings to the GMP total $500,000.

In addition to the savings listed above, other contractual terms were discussed. Haskell has also provided a list of suggested changes to the standard contract (see attached copy). This list was discussed with Haskell at the Monday meeting. In addition, General Counsel has reviewed these items and has provided a written response (see attachment). The negotiating committee does not believe that any of the items listed in Haskell’s correspondence represent a major conflict with the Board’s objectives.

Based on the Board’s goal of reaching as many customers with the funds available, the negotiating team believes that the Haskell “best and final” (see attachment) offer provides the District with an opportunity to reach a sufficient number of EDUs to make this project more cost effective. Because of the short time frame between receipt of the “best and final” offer and the Board meeting today, the following table has been provided to show what impact the final offer by Haskell will have on total funds available for both Key Largo Park and Key Largo Trailer Village.
<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>KLTV (Best and Final)</td>
<td>$7,895,000</td>
</tr>
<tr>
<td>Preliminary Engineering Planning</td>
<td>$392,955</td>
</tr>
<tr>
<td>Construction Management (Revised)</td>
<td>$400,000</td>
</tr>
<tr>
<td>Key Largo Park (Base Bid)</td>
<td>$1,097,650</td>
</tr>
<tr>
<td>Engineering</td>
<td>$325,000</td>
</tr>
<tr>
<td>Construction Management (revised)</td>
<td>$150,000</td>
</tr>
<tr>
<td>Total Committed Funds</td>
<td>$10,260,605</td>
</tr>
<tr>
<td>Plus Land Purchase</td>
<td>$826,234</td>
</tr>
<tr>
<td>Grand Total</td>
<td>$11,086,839</td>
</tr>
<tr>
<td>Funds Available</td>
<td>$12,411,646</td>
</tr>
<tr>
<td>Balance Remaining</td>
<td>$1,324,807</td>
</tr>
</tbody>
</table>

1 Includes $100,000 from South Florida Water Management District.

Based on these potential costs savings, the Board has the opportunity to move forward with final negotiations with the Haskell Company for the Key Largo Trailer Village Project. In addition, the Board could authorize the negotiating team to finalize the contract with Higgins for the base bid for Key Largo Park. At that point, the District would have the option of issuing a change order with either or both firms to conduct additional work within Key Largo Park based on the funds available.

Recommendations

It is the negotiating team’s recommendation that the Board authorize the negotiating team to continue and move toward final negotiations with Haskell for the Key Largo Trailer Village Project. The team also recommends that the board authorize negotiations to begin as soon as KLTV is finalized with Higgins for the Key Largo Park base bid.

The District’s General Counsel will become more involved in the discussions at this point, due to the fact that in addition to the costs reductions, other terms and conditions will need to be incorporated into the final contract between the Haskell Company and the District.

Closing

The goal and purpose will be to maximize efficiencies and economies of scale for the completion of the Key Largo Park based on available funds.
Attached to your briefing document is a copy of the Haskell Company's best and final offer, dated April 22, 2003, the Haskell letter dated April 18, 2003 outlining proposed contract modifications and the correspondence from Lewis, Longman and Walker dated April 22, 2003, which responds to the proposed contract modifications by the Haskell Company.

In closing, as District Manager, I would like to recognize and thank every member of the negotiating team for all the hard work that has taken place since this process has begun.
April 22, 2003

Re: Design/Build Wastewater Management System for the Key Largo Trailer Village Area
Best and Final Cost Proposal

Mr. Robert E. Sheets, Chief Executive Officer
Government Services Group, Inc.
1500 Mahan Drive
Suite 250
Tallahassee, Florida 32308

Dear Mr. Sheets:

The Haskell Company is pleased to present to the Key Largo Wastewater Treatment District (KLWWTD) our “Best and Final” Cost Proposal for the Design-Build Wastewater Management System for the Key Largo Trailer Village Area project. The Haskell Company will design and construct the above referenced project in accordance with the requirements of the Request for Proposals and as defined in our Design-Build Technical Proposal for $7,970,000.00. The “Best and Final” Cost Proposal was developed as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Total Combined Project Cost</td>
<td>$8,445,203.00</td>
</tr>
<tr>
<td>Option to use Roe Vac in lieu of Airvac</td>
<td>&lt;$75,000.00&gt;</td>
</tr>
<tr>
<td>Eliminate Collection System Spare Parts</td>
<td>&lt;$25,000.00&gt;</td>
</tr>
<tr>
<td>Eliminate Collection System Testing Equipment</td>
<td>&lt;$20,000.00&gt;</td>
</tr>
<tr>
<td>Reduce Man-hours of Collection System Representative</td>
<td>&lt;$30,000.00&gt;</td>
</tr>
<tr>
<td>Reduce Landscaping Scope</td>
<td>&lt;$25,000.00&gt;</td>
</tr>
<tr>
<td>Eliminate Vacuum Pumps Pricing Double Up</td>
<td>&lt;$35,000.00&gt;</td>
</tr>
<tr>
<td>Eliminate Owner Trailer</td>
<td>&lt;$15,000.00&gt;</td>
</tr>
<tr>
<td>Reduce Number of Vacuum Valve Pits</td>
<td>&lt;$150,000.00&gt;</td>
</tr>
<tr>
<td>Open Cut US 1 Crossing</td>
<td>&lt;$50,000.00&gt;</td>
</tr>
<tr>
<td>Convert Contract to Lump Sum Agreement</td>
<td>&lt;$50,203.00&gt;</td>
</tr>
<tr>
<td>&quot;Best and Final&quot; Total Combined Project Cost</td>
<td>$7,970,000.00</td>
</tr>
</tbody>
</table>
Mr. Robert E. Sheets  
April 22, 2003  
Page 2

It should be noted that the “Best and Final” Total Combined Project Cost does not include the $75,000.00 savings associated with sales tax credits on KLWWTD purchased material. These costs must be included in the original contract value and would be credited to the KLWWTD as material is purchased and associated deductive change orders are executed. Once these savings are realized, the actual project cost would be $7,895,000.00.

The conditions associated with the “Best and Final” Total Combined Project Cost are as follows:

1. The KLWWTD will give consideration to the proposed contract modifications presented in the Haskell letter dated April 18, 2003 and discussed during the April 21, 2003 negotiations.
2. The Haskell Company has the option of using Roe Vac in lieu of Airvac for the vacuum collection system.
3. There will be no vacuum collection system spare parts provided under this contract.
4. It is assumed that the vacuum collection system spare parts provided with the Key Largo Park project will suffice.
5. There will be no vacuum collection system testing equipment provided under this contract. It is assumed that the vacuum collection system testing equipment provided with the Key Largo Park project will be used on the Key Largo Village project.
6. The vacuum collection system representative will be limited to eight weeks of onsite support (training, observation, startup, etc.). No additional support should be required to properly deliver the project.
7. The landscaping budget has been reduced to $28,585.00. This budget should be sufficient to provide landscaping meeting the requirements of the project.
8. There will be no owner trailer provided under this contract.
9. The agreement is based upon one hundred thirty-one (131) vacuum valve pits. This number of vacuum valve pits should be sufficient provide a complete an operable vacuum collection system.
10. The contract will be converted from a cost plus with GMP agreement to a lump sum agreement.
11. The agreement is based upon open cutting the US 1 crossing. All indications from DOT are positive with this regard.
Mr. Robert E. Sheets  
April 22, 2003  
Page 3

The Haskell Company recognizes KLWWTD’s desire to utilize USBF secondary treatment in lieu of SBR secondary treatment. As discussed, the capital cost of USBF appears to be greater than the capital cost of SBR. We are analyzing the construction cost associated with this treatment process in order to identify and ultimately eliminate all cost differences between the two systems. It is our intent to offer the KLWWTD the option of using either USBF or SBR for the “Best and Final” Total Combined Project Cost indicated above. It should be noted that the 50/50 shared savings provisions of the contract will be waived with regard to USBF and that all cost reductions realized with this treatment process will be returned to the KLWWTD in full.

Thank you for your consideration. If you should have any questions or concerns in this matter, please feel free to contact me at (904) 357-4868. We look forward to a mutually successful project.

Sincerely,

Peter M. Kinsley  
Division Leader - Water

cc: Daniel R. Dumke
April 18, 2003

Mr. Robert E. Sheets, Chief Executive Officer
Government Services Group, Inc.
1500 Mahan Drive
Suite 250
Tallahassee, Florida 32308

Dear Mr. Sheets:

The Haskell Company has reviewed the draft Contract for the Design/Build Wastewater Management System for the Key Largo Trailer Village Area dated January 2003. We have found the Contract to be generally acceptable; however, would request your consideration of the following additions, deletions and modifications:

Article 2 – General Provisions

Paragraph 2.1 – Relationship of the Parties
Add to the end of this paragraph “Should design modifications and alternate materials or equipment have cost and/or schedule impact to the CONTRACTOR, an equitable Change Order will be provided in accordance with Article 9 of this Agreement.”

Paragraph 2.2 – Engineer
Change this paragraph to read “Engineering services shall be furnished by licensed employees of CONTRACTOR, its Subcontractors, or as permitted by the law of the state where the Project is located.”

Paragraph 2.4 – Definitions
With regard to the definition of “Notice to Proceed”, and as discussed in our meeting of April 15, 2003, The Haskell Company proposes that only one (1) overall Notice to Proceed be issued for the Project.

With regard to the definition of “Uncontrollable Circumstance”, we propose the following:

Paragraph (1)(a), change to read “an act of God, hurricane, landslide, lightning, earthquake, fire, flood, plague, tornadoes, (but not including reasonably anticipated weather conditions for the geographic area of the Facility), explosion, sabotage or similar occurrence, acts of public enemy, extortion, war, acts of terrorism, blockade or insurrection, riot or civil disturbance;”
Paragraph (1)(d)(4), change to read “subsurface conditions of which the CONTRACTOR, through the exercise of reasonable diligence, could not reasonably be expected to have noticed.”

Add a Paragraph (1)(m) which reads “Closure, road work or travel restrictions on U.S. Highway 1.”

Add a Paragraph (1)(n) which reads “Delay of residential and commercial system connections preventing completion of the Acceptance Test.”

Article 3 – Contractor’s Responsibilities

Paragraph 3.1.3. – CONTRACTOR’S Requested Design Changes
In the last sentence, strike the words “and (4) are feasible.”

Paragraph 3.1.6. – Reuse of Documents
Change the second sentence to read “Reuse on another project, change, or alteration by KLWWTD or by others acting through or on behalf of KLWWTD of any such instruments of service without the written permission of CONTRACTOR will be at such person or entity’s sole risk is prohibited.”

Paragraph 3.3.11. – Permits
Add to the end of this paragraph “Permits for residential and commercial system connections are not part of this Agreement.”

Paragraph 3.3.12.2 – COMPANY CONTRACTOR Tests
Change the first sentence to read “Contractor shall conduct all tests and inspections of the construction (including shop tests) or inspections as required by good engineering practice, by the final design requirements, by Applicable Law, or by Insurance Requirements.”

Paragraph 3.4.2 – KLWWTD Safety Procedures
Change paragraph (b)(1) to read, “CONTRACTOR shall have in place a training program to comply with OSHA Regulations 1910.119 (g) 29 CFR 1926 OSHA Construction Industry Regulations. “Certifications and Records” shall include safety performance records, current safety programs, training program and certifications, experience with related processes. Evidence should refer to the following procedures: Lockout/tagout (§1910.147), confined space entry (§1910.147) (§1910.146), and emergency response (§1926.55).”

Change paragraph (c)(4) to read “Prior to beginning construction work Contractor shall submit for approval a list of safety officer(s) designated for the Project and, if required requested, examples of daily badges, the badge issuing process, and example of log-in sheets with provisions for transferring responsibility from one safety officer to another, and proof of training sign-in sheets and questionnaires for all on-site personnel-proof of employee safety orientation”
April 18, 2003
Mr. Robert E. Sheets
Page 3

Paragraph 3.6 – Hazardous Waste and Investigation of Site Conditions
Propose to strike Paragraph 3.6.7 in its entirety. (Note: Language of this Paragraph is redundant with that of Paragraph 3.6.9).

Paragraph 3.8 – KLWWTD Purchased Equipment
In Paragraph 3.8.2.(e), last sentence, correct spelling of the word “direct”.

Add a Paragraph 3.8.2.(o) which reads “Should delivery of any KLWWTD equipment or material delay or impact the Contractor’s performance of the Work in any way, Contractor shall be entitled to an equitable change order in accordance with Article 9 of this Agreement.”

Add a Paragraph 3.8.2.(p) which reads “All vendors and/or manufacturers associated with KLWWTD purchased equipment and materials shall provide performance and payment bonds as required by this Agreement. Terms and conditions of the individual purchase agreements will be mutually determined by CONTRACTOR and KLWWTD.”

Article 5 – Subcontracts

Paragraph 5.6 – CONTRACTOR’s Construction Superintendent
In the first paragraph, strike the parenthesized words (the “Construction Manager”).

Article 9 – Changes In The Work

Paragraph 9.1 – Extension of Time
Change the second sentence of the first paragraph to read “An application by CONTRACTOR for extension of time must be in writing, must be set forth in detail the reasons and causes of the delay, and must be submitted to the KLWWTD within seven (7) days following the occurrence recognition of the delay.”

In the second paragraph, add “acts of terrorism” after the word “war”.

Paragraph 9.3 – Extra Work
Change paragraph (c)(3) to read “For special equipment and machinery required for the economical performance of the authorized work, CONTRACTOR shall receive payment based on the rental price for each item of equipment at ninety percent (90%) of Blue Book and the actual time of its use on the work, including delivery, set-up and training if required.”

Article 10 – Emergency Situation

Paragraph 10.5 – Costs and Compensation
After the second sentence, add the following “In addition, in the event it is determined that the emergency or threat was not caused by Contractor Fault, CONTRACTOR shall receive an extension of the Schedule Date of Substantial Completion or the Scheduled Acceptance Date, as appropriate, on account of LKWWTD Emergency Operations.”
April 18, 2003  
Mr. Robert E. Sheets  
Page 4

**Article 11 - Payment For Construction Phase Services**

Paragraph 11.1.3 - Construction Disbursement Procedure  
Change sentence six to read “The KLWWTD shall pay CONTRACTOR within the expiration of such thirty (30) day period if (1) the KLWWTD determines and verifies in writing that the work has progressed in accordance with this Agreement, or (2) the KLWWTD fails to verify or dispute the certified requisition within thirty (30) ten (10) days of receipt.”

Paragraph 11.1.4 - Information Supporting Invoice  
Change Paragraph (h) to read “Unconditional waivers executed by each subcontractor or materialmen to either CONTRACTOR or entities in privity of contract with CONTRACTOR, attesting to receipt of payment in full through the date thirty (30) days prior to of the invoice most recently paid by the KLWWTD to CONTRACTOR. Lien waivers will be provided only from those subcontractors or materialmen who have fully complied with the notification requirements of the applicable Florida Statutes.”

Paragraph 11.2 - Payment Procedures  
Change the fifth sentence to read “Retainage on the remaining work only shall be reduced to five percent (5%) zero percent (0%).”

Paragraph 11.3 - Progress Payments  
Add to the end of Paragraph 11.3.1 the following sentence “Payments will be made to CONTRACTOR from KLWWTD via electronic (wire) transfer of funds.”

In Paragraph 11.3.4, correct the spelling of the words “manuals”, “documentation”, “Director”, and “representative”.

**Article 12 - Indemnity, Insurance and Waiver of Subrogation**

Paragraph 12.2 - Indemnity  
Change the first sentence of this paragraph to read “To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold the KLWWTD harmless (including all officers, employees, agents, and consultants of the KLWWTD) from and against all verifiable claims, damages, losses and expenses of any nature, including but not limited to reasonable attorney’s fees (including any attorneys’ fees incurred in connection with any appellate or administrative action), arising directly or indirectly from performance or non-performance of the work described in this Agreement by CONTRACTOR, a Subcontractor, or anyone directly or indirectly employed by them or anyone for whom they may be liable in connection with the performance of work.

**Article 13 - Termination Of The Agreement And KLWWTD’s Right To Perform CONTRACTOR’s Responsibilities**

Paragraph 13.2 - KLWWTD Right to Perform CONTRACTOR’s Obligations and Termination by KLWWTD for Cause  
Change Paragraph 13.2.1 to read “If CONTRACTOR fails to perform any of its obligations under
April 18, 2003
Mr. Robert E. Sheets

Page 5

this Agreement, KLWWTD may, after seven (7) days written notice, during which period CONTRACTOR fails to perform commence with appropriate actions to satisfy such obligation, undertake to perform such obligations.”

Change the first sentence of the last section of Paragraph 13.2.2 to read “If CONTRACTOR fails to commence with appropriate actions to cure within seven (7) days, KLWWTD, without prejudice to any other right or remedy including reasonable damages permitted, may take possession of the site and complete the Scope of Work utilizing any reasonable means.”

Article 14 – Dispute Resolution

Paragraph 14.1 – Dispute Notice
At the end of this paragraph, add the sentence “Dispute Notices shall be provided in accordance with Article 11 of this Agreement.”

Paragraph 14.6 – Mediation
Change the term “Independent Engineer” to “Independent Party” throughout.

Paragraph 14.7 – Judicial Review
Change the last sentence of Paragraph 14.7.1 to read “Both parties agree to the waiver of jury trial, unless required by applicable Local, State or Federal law.”

Paragraph 14.8 – Work Continuance and Payment
Change the second sentence of this Paragraph to read “If CONTRACTOR continues to perform, KLWWTD shall continue to make payments and perform its responsibilities in accordance with this Agreement.”

Article 15 – Miscellaneous Provisions

Paragraph 15.3 – Governing Law
In the last sentence of this Paragraph, correct the spelling of the word “inconvenient”.

Paragraph 15.4 – Delivery of Documents in Electronic Format
Change the last sentence of this Paragraph to read “Electronic copies shall consist of computer readable data submitted in any form and a format the KLWWTD may reasonably request to facilitate the administration and enforcement of this Agreement of the most current versions of Microsoft Office (Excel/Word), AutoCAD and Adobe Acrobat.”

Paragraph 15.17 – Costs of Enforcement
Change this paragraph to read “In the event any party to this Agreement shall be required to retain an attorney to enforce any terms, conditions or covenants under this Agreement, or to remedy any breach, the prevailing party shall be entitled to recover the verifiable costs of any such enforcement proceedings, including, but not limited to, reasonable attorney’s fees (including charges for paralegals and others working under the direction or supervision of the party’s attorney), whether incurred in connection with pre-litigation demands, mediation, trial, appeal, bankruptcy, proceedings, or otherwise, and court costs.”
April 18, 2003
Mr. Robert E. Sheets
Page 6

Pursuant to our general discussion regarding Payment for Construction Phase Services, The Haskell Company would like to offer, for your consideration, a Lump Sum payment arrangement in lieu of the current GMP procedures outlined in Article 11 of the Agreement. In an effort to achieve the project budget goals of the KLWWTD, we are expending significant effort to reduce costs wherever possible. In doing so, we are consequently eliminating the potential for shared savings in a GMP-type contract. Admittedly, the documentation required in a GMP contract will require considerable efforts by both contracting parties. A lump sum agreement will simplify the payment process significantly. Should this concept prove to have merit through our forthcoming discussions, The Haskell Company will propose the necessary substitute language for Article 11 for KLWWTD review.

As a general statement, any provisions of addenda issued prior to these negotiations should be included as appropriate in the Contract. No attempt has been made in the proposed modifications above to include these changes. In addition, it is understood that the majority of the Contract Exhibits A through P will be developed as contract negotiations are finalized in this regard.

Thank you again for your time and consideration of the above. If you should have any questions or concerns in this matter, please feel free to contact the undersigned at (904) 357-4225.

Sincerely,

Peter M. Kinsley
Division Leader

cc: Daniel R. Dumke
April 22, 2003

Mr. Robert E. Sheets  
Government Services Group, Inc.  
1500 Mahan Drive, Suite 250  
Tallahassee, FL 32308

RE: Design/Build Wastewater Management System  
for the Key Largo Trailer Village Area  
Proposed Contract Modifications

Dear Robert:

We have reviewed the letter from the Haskell Company (Peter M. Kinsley, Division Leader) dated April 18, 2003, as well as the draft Design-Build Agreement. The following comments follow the format of Haskell’s suggested revisions as outlined in Mr. Kinsley’s letter for ease of reference.

**Article 2 - General Provisions**

1. Paragraph 2.1 - The revisions are acceptable.
2. Paragraph 2.2 - The revisions are acceptable.
3. Paragraph 2.4 - The revisions are acceptable.
4. Paragraph (1)(d)(4) - The revisions are unacceptable.
5. Paragraph (1)(m) - The revisions are acceptable.
6. Paragraph (1)(n) - The revisions are acceptable.

**Article 3 - Contractor’s Responsibilities**

1. Paragraph 3.1.3 - The revisions are acceptable.
2. Paragraph 3.1.6 - The revisions are unacceptable.
3. Paragraph 3.1.3 - The revisions are acceptable.
4. Paragraph 3.3.11 - The revisions are acceptable.
5. Paragraph 3.3.12.2 - The revisions are acceptable.
6. Paragraph 3.4.2(b)(1) - The revisions are acceptable.
7. Paragraph 3.4.2(c)(4) - The revisions are acceptable.
8. Paragraph 3.6 - The revisions are unacceptable.  
   Leave in Paragraph 3.6.7.
Mr. Robert E. Sheets  
Government Services Group, Inc.  
April 22, 2003  
Page 2  

9. Paragraph 3.8 - Thank you for pointing out this spelling error.

10. Paragraph 3.8.2(o) - The addition of this paragraph is acceptable with the following revision: "Should delivery of any KLWWTD equipment or material ordered and purchased by KLWWTD delay or impact the Contractor's performance of the Work in any way, Contractor shall be entitled to an equitable change order in accordance with Article 9 of this Agreement."

11. Paragraph 3.8.2(p) - The revisions are acceptable.

Article 5 - Subcontracts

1. Paragraph 5.6 - The revisions are acceptable.

Article 9 - Changes in the Work

1. Paragraph 9.1 - The revisions are unacceptable as is, but are acceptable with the following revision: "An application by CONTRACTOR for extension of time must be in writing, must be set forth in detail the reasons and causes of the delay, and must be submitted to KLWWTD within seven (7) days following notice to KLWWTD of the delay."

2. Paragraph 9.3 - The revisions are acceptable.

Article 10 - Emergency Situation

1. Paragraph 10.5 – The revisions are acceptable.
2. Paragraph 11.1.3 – The revisions are unacceptable.
3. Paragraph 11.1.4 – The revisions are acceptable.
4. Paragraph 11.2 – The revisions are acceptable.
5. Paragraph 11.3 – The revisions are acceptable.
6. Paragraph 11.3.4 – Thank you for pointing out these spelling errors.

Article 12 - Indemnity, Insurance and Waiver of Subrogation

1. Paragraph 12.2 - The revisions are unacceptable as is. We recommend the paragraph be revised to reflect the following: "To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold the KLWWTD harmless (including all officers, employees, agents, and consultants of the KLWWTD) from and against all verifiable claims, damages, losses and expenses of any nature, including but not limited to reasonable attorneys' fees and costs (including
any attorneys' fees incurred in connection with any appellate or administrative action, arising directly or indirectly from performance or non-performance of the work described in this Agreement by CONTRACTOR, a Subcontractor, or anyone under the direction and control of CONTRACTOR.

Article 13 - Termination of the Agreement and KLWWTD'S Right to Perform CONTRACTOR'S Responsibilities

1. Paragraph 13.2 - The revisions are acceptable.
2. Paragraph 13.2.2 - The revisions are acceptable.

Article 14 - Dispute Resolution

1. Paragraph 14.1 - The revisions are acceptable.
2. Paragraph 14.6 - The revisions are acceptable.
3. Paragraph 14.7 - The revisions are acceptable.
4. Paragraph 14.8 - The revisions are acceptable.

Article 15 - Miscellaneous Provisions

1. Paragraph 15.3 - The revisions are acceptable.
2. Paragraph 15.4 - The revisions are acceptable.
3. Paragraph 15.17 - The revisions are acceptable with the following revision: “In the event any party to this Agreement shall be required to retain an attorney to enforce any terms, condition or covenants under this Agreement, or to remedy any breach, the prevailing party shall be entitled to recover the verifiable costs and fees of any such enforcement proceedings, including, but not limited to, reasonable attorney's fees (including charges for paralegals and others working under the direction or supervision of the party’s attorney).”

Should you have any questions or comments or require any further clarification, please do not hesitate to contact me or Amy.

Sincerely yours,

Terry E. Lewis

TEL/bt

c. Andrew M. Tobin, Esquire
Amy M. Dukes, Esquire

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