July 21st

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<td>Walt Messenger</td>
<td><a href="mailto:mhh@msn.com">mhh@msn.com</a></td>
<td>305-892-7889</td>
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<td>Pete Kinsley</td>
<td><a href="mailto:mkinsley@thevesco.com">mkinsley@thevesco.com</a></td>
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<td>Robert E. Kurth</td>
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Prepared July 12, 2004
Prepared for payment: July 1, 2004
Key Largo Water and Sewer District
Dear Commissioners:

Currently outstanding, pending payments to the Key Largo Wastewater Treatment District are as follows:

- $68,886.60 Key Largo Village
- $204,514.47 Key Largo Park
- $984,227.79 Total

The purpose of this letter is to provide an update on the financial status of the Key Largo Wastewater Treatment District and to request the Board's approval for the release of funds.

Sincerely,

David R. Miles, Director of Finance
Thomas Dillon, Board Attorney

CC: Key Largo Wastewater Treatment District, Board Members

From:

Date:

RE:

Pending Payments, Key Largo Wastewater Treatment District

July 13, 2004

Post Office Box 491, Key Largo, Florida 33037

Key Largo Wastewater Treatment District
Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Agenda
5:00 PM Wednesday, July 21, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

I - Call to Order

II - Pledge of Allegiance

III - Additions, Deletions or Corrections to the Regular Meeting Agenda

IV - Approval of the Draft July 7, 2004 Meeting Minutes

V - Public Comment

VI – PRMG Presentation on Rate Study

VII - Legal Counsel's Report

LC 1 - Haskell Notice of Delay – Draft Change Order No. 2
LC 2 – Prompt Pay Act Am. No. 1 to the Haskell Contract
LC 3 – Status of Calusa Condo Document Review
LC 4 - D.N. Higgins letter dated 7-14-04

VIII - Action Items

AC 1 – Approval of the Clerk’s Employment Agreement
AC 2 – Approval of the CFO’s Employment Agreement
AC 3 – Approval of Resolution 2004-02 Authorized Signatories on KLWTD Bank Accounts
AC 4 - Approval of Change Order No. 2 to the Haskell Contract (162 day extension)
AC 5 – Approval of Amendment No. 1 to the Haskell Contract

IX – Chief Financial Officers Report

CFO 1 - Approval of the Pending Payments List for July 21, 2004
CFO 2 – Presentation of the Draft FY2005 Operations Budget
CFO 3 – Status of FEMA Phase I Funds
CFO 4 - Status of Transition of the CFO Function

X - General Manager’s Report

GM 1 - Status of the Kings Kamp Letter
GM 2 - Status of the Site Mitigation
GM 3 - Status of the System Development Charge
GM 4 – Plan for Community Meeting
XI - Engineer's Report

PE 1 - Report on the Design Review
PE 2 - Status of Sexton Cove RFP
PE 3 - Report from Haskell Project Manager
   a. Discussion of the Change Proposal for KLP

XII - Public Comment

XIII - Commissioner's Item

CI 1 – Report on the Florida Keys Water Quality Improvement Program Meeting – Commissioner Brooks

CI 2 - Update on past agenda items:
   A. FEMA FONSI Status
   B. Water Quality Testing
   C. Resolution of $100K Loan repayment issue
   D. Site mitigation
   E. KLP vacant lot resolution
   F. Project request for FEMA deadline extension
   G. CDBG Grants and/or funds for private connections
   H. Procedures
   I. Web Site Development
   J. Elections at Large versus Seats

XIV – Meeting Adjournment
KLWTD Board Meeting
July 21, 2004

Item IV

Draft July 7, 2004 Meeting Minutes
Board Members Present

Gary Bauman, Chair
Cris Beaty
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Members Present

Charles Fishburn, General Manager
David Miles, CFO (via telephone)
Thomas Dillon, Board Attorney
Ed Castle, Board Engineer
Faith Doyle, Board Clerk

Guests Present

Mayor Murray Nelson, Monroe County BOCC
Will English, Project Manager, The Haskell Company
Lissette Lopez, Key Largo resident
Martin Waits, Key Largo resident
Steve Gibbs, reporter for the Free Press
Howard Gelbman, Key Largo resident
Burke Cannon, Key Largo resident
Laura Norman, Key Largo resident

I - Call to Order

Chairman Bauman called the meeting to order at 5:01 p.m.

II - Pledge of Allegiance

The pledge was recited.

III - Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Tobin requested the following items to be added as discussion items: the letter from Dr. Straw of FEMA, the letter on the hammock rule, the correspondence received on the main registry for the web site and the letter from Gino Angella of Calusa Camp Resort.
IV - Approval of the Draft June 16, 2004 Meeting Minutes

**Commissioner Wilkinson** moved to approve the June 16, 2004 Meeting Minutes. **Commissioner Beaty** seconded the motion. Mr. Dillon stated that concerning his previous comments on the meeting recordings being the best evidence of the action taken at meetings, it is the official minutes that are the records for the organization. Commissioner Tobin moved that the Board Clerk should sign the minutes after approval. All were in favor of the motion and it passed unanimously.

V - Public Comment

Mayor Nelson distributed copies of the latest DCA rule and commented that the revisions to the 2820 rule will result in the KLWTD plant site be exempt because it will be ‘grand-fathered’ under the express terms of the rule.

VI - Legal Counsel’s Report

**LC 1 - Haskell Notice of Delay**

Mr. Dillon suggested granting the 162-day extension. If the Board agrees the general manager will work with Haskell to resolve the issue by drafting and presenting Change Order No. 2. Categories of damages were discussed.

**LC 2 – Prompt Pay Act Am. No. 1 to the Haskell Contract**

Mr. Dillon stated that this amendment had been proposed because the clause was inadvertently omitted from the original contract. Haskell has not responded to repeated requests to resolve the issue. Mr. English stated that Mr. Kinsley would provide a response by next week.

**LC 3 – Status of Lease for Bank of America**

Mr. Dillon informed the Board that the Bank of America does not have ADA compliant restrooms and would not negotiate on any of the terms. It was the consensus of the Board to not pursue leasing from Bank of America.

**LC 4 – Letter to the Supervisor of Elections, Monroe County**

The letter that was drafted and forwarded by Mr. Dillon at the request of the Office of Election was presented and reviewed. Mr. Sawyer was pleased with the approach and the letter resolves the issue. Under the terms of the Key Largo Wastewater Treatment District Act, Board elections are “at large” elections and legislation would be necessary in order to change that status.

**LC 5 – Direct Purchase Procedures**

The procedure outline was presented. The suggested resolution for board action was reviewed. Mr. Dillon stated that Paragraph 3 was required in order to utilize the provision of the Special District law that allows a district to waive competitive procurement in certain cases. In this case, Haskell is using its own processes for competitive procurement, and the public interest in competition is protected. Mr. Dillon recommended adoption of the resolution.

KLWTD Draft 7-7-04 Meeting Minutes
Page 2 of 8
Additional legal items:

Mr. Dillon reviewed the letter that had been received from FEMA's Dr. Straw. Mr. Dillon stated that most issues were addressed sufficiently. However, it seems the letter states that FEMA wants a great deal more site restoration anywhere from the original 2.6 acres to upwards of 40 plus acres. However, Mr. Fishburn corrected this statement in the General Manager's report.

Mr. Dillon stated that the FEMA/DCA agreements were available for execution and should be acted on as soon as possible.

Commissioner Tobin requested further discussion on the letter from FEMA. Discussion ensued on the future deed holder. Commissioner Tobin asked if there would be modifications to the agreement on this point. Mr. Dillon stated that although it was discussed the letter does not modify the agreement concerning the issue.

Mayor Nelson distributed additional information on Monroe County Rule 20, which indicated that the KLWTD would be grandfathered. Mr. Dillon stated that he would review the information and would provide his input to Mayor's office if required. Mayor Nelson explained that Rule 20 is the Monroe County rule that limits development in the County. He stated that the BOCC and State are changing some rules making them more stringent. The District projects can continue as planned. Mayor Nelson suggested the changes that would exempt the District so that the rule would not keep the District from using the land for the plant. Discussion ensued. Mayor Nelson stated that additional revisions were made to cover all future treatment facility expansion up to 4.2 acres.

VII - Action Items

A1 1 -- Approval of Resolution 2004-01 of the KLWTD Approving Direct Equipment Purchases

Commissioner Tobin moved Resolution 2004-01. Commissioner Beaty seconded the motion for discussion. Commissioner Wilkinson stated again that he was opposed to the concept of direct purchases. Commissioner Brooks questioned the inclusion of the list of what is to be purchased directly. Mr. Dillon stated that no list had been specified because of the Board's wish to have the most benefit by direct purchases. It was Mr. Dillon's understanding that at the last meeting the general manager was directed to manage the issue. Discussion ensued on the list. Mr. Fishburn stated that he had been provided a list from Haskell. A roll call vote was requested.

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The motion carried.

A1 2 – Approval of Work Authorization WEC 04-01 with Weiler Engineering Corporation for Development of an RFP for the Next KLWTD Project
Mr. Castle presented the Work Authorization and answered the Board’s questions concerning the scope and deliverables. **Commissioner Brooks moved to approve Work Authorization WEC 04-01. Commissioner Beatty seconded the motion.** Commissioner Brooks requested a copy of the approved document so that he could hand carry it to the Project Development Team meeting to demonstrate that K LWTD has a project being prepared that would be eligible for federal funds. Discussion ensued on the number of residential EDU’s that would result from the project, the estimated cost for the project. Mayor Nelson stated that it is prudent to have this project ready to bid, especially because it has the ability to expand and add more customers. Mr. Castle noted that using the FKAA’s abandoned lines could reduce the cost of a force main. Discussion ensued on the County paying the cost of work authorization WEC 04-02 and the need for clarification in the body of the work authorization outlining the funding sources. Mayor Nelson stated that the Board would need to be willing to sign a bond document stating that the $2,700 connection fees would be used for future expansion. Mayor Nelson suggested using the FKAA resolution and process as an example. **A roll call vote was requested:**

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The motion was unanimously approved.

Discussion continued on the issue of bonding. Mr. Miles was directed to discuss the future budget implications of the proposed project with Mr. Castle.

AI 3 – Approval of Amendment No. 1 to the Weiler Engineering Corporation Contract for Consulting/Professional Services

**Commissioner Beatty moved to approve Am. No. 1 to the Weiler Engineering Corporation Contract. Commissioner Tobin seconded the motion.** With no further discussion all voted in favor of the motion.

VIII – Chief Financial Officers Report

**CFO 1 -- Approval of the Pending Payments List for July 7, 2004 including status of the MSTU Funds**

Mr. Miles presented the item. He informed the Board that a $55,000 check had been received from the County.

Mr. Miles stated a correction to the memo presented. Draw 3 should be $55,923.03 and the net available to draw down should be $350,043.58.

Discussion ensued concerning the $129,000 advance on the KLP project from FKAA that had not been received. Mr. Miles stated that of the approximately $495,000 in FEMA Phase I funds K LWTD had asked for $450,000 to be forwarded, FKAA declines further advances at the direction of Miles Anderson to K LWTD at this time. Mr. Miles contacted Mr. Anderson concerning the issue. He was informed that the FEMA Phase II contract needs to be approved and forwarded to FEMA prior to setting up a reimbursement schedule. Discussion ensued on
the FKAA actions and Mr. Anderson’s decision to hold reimbursement. Mr. Miles stated that he would be meeting with Mr. Anderson concerning the issue next week in Orlando. Chairman Bauman requested that he be notified on the outcome of the meeting as soon as possible.

Commissioner Wilkinson moved to approve the payments lists in its entirety. Commissioner Beatty seconded the motion. Commissioner Beatty noted that he was not in attendance at one of the June meetings so his payroll should be reduced. Mr. Miles stated that he would correct the error during the next payroll period. With no further discussion the motion was unanimously approved.

CFO 2 – Status of the Annual Budget Process

Mr. Miles stated that the FY2005 operations budget would be presented in draft form at the July 21 meeting. The FY 2005 capital program would be presented after the details are reviewed with Mr. Castle.
Commissioner Beatty questioned how long the current MSTU in force. Monroe County Ordinance 018-2003 stated that it would apply through 2007. The amount of the revenues received during FY2004 was approximately $700,000.

Chairman Bauman recessed the meeting at 6:50 p.m.
Chairman Bauman reconvened the meeting at 7:05 p.m.

IX  – General Manager’s Report

GM 1 - Status of the Clerk Position

Mr. Fishburn stated that he had interviewed all applicants. Ms. Jeanette Bates has withdrawn her application. Ms. Lisette Lopez and Ms. Laura Norman were present at the meeting. Ms. Norman would be available immediately. Ms. Carol Simpkins was determined to be the most qualified but negotiations would be needed to come to terms with the salary. Mr. Fishburn stated concern that Ms. Simpkins would not be amicable to accepting the position at the current rate stated in the Board’s advertisement.

Discussion ensued. Commissioner Brooks entertained a motion to hire Ms. Simpkins at an all-inclusive salary of $57,000 annually as an exempt employee. Ms. Simpkins experience with grant applications and disbursement of funds. Discussion ensued on the salary, qualifications, title and if the manager’s recommendation should prevail or if the Board should decide on the clerk.

Commissioner Brooks moved to approve the General Manager having the authority to hire a clerk for an all-inclusive annual salary of $57,000.00 as an exempt full-time employee. Chairman Tobin seconded the motion and requested the title be amended to be “clerk/ assistant manager”. Commissioner Brooks amended his motion. A roll call vote was requested.

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KLWTD Draft 7-7-04 Meeting Minutes
Page 5 of 8
The motion was unanimously approved.

Mr. Fishburn stated that he would begin negotiations with Ms. Simpkins and present an employment agreement to the Board for approval.

GM 2 - Status of the CFO Position

Mr. Fishburn stated that he recommends Mr. Martin D. Waits be hired to fill the CFO Position. Commissioner Beaty stated that after reviewing Mr. Waits qualifications and resume he agrees that he posses the skills to perform the duties and functions of the position.

Mr. Waits stated the first issue he would address is the software for the accounting system and the transition plan for the CFO Functions from GSG to the District. Mr. Waits stated that he would provide a transition plan for the Board’s consideration at the next meeting.

Mr. Fishburn requested that he start immediately on an hourly basis and that an employment agreement be negotiated immediately and presented to the Board at the next meeting for approval.

GM 3 - Report on the Calusa Camp Resort Meeting

Mr. Fishburn stated that he had met with the camp resort manager to discuss options. The cost is a major issue. The letter from Gino Angella letter was presented and discussed.

Mr. Castle reviewed his summary of the options that had been provided with the agenda. Commissioner Tobin requested discussion on the options outlined in the memo. Discussion ensued on the five options presented. Commissioner Wilkinson requested that Mr. Dillon review the condominium law to verify access by third parties. Mr. Dillon stated that in the future many condo associations would be involved and policy decisions should be made soon so that policy would be applied consistently to all establishments.

GM 4 - Status of the Site Mitigation

It was suggested this agenda item be combined with GM 6. Mr. Fishburn stated that since the last meeting a teleconference that included FEMA (Dr. Straw), the Governor’s office and Mayor Nelson was conducted. Discussions included the need for more land (4.2 acres) for future expansion and site mitigation. Mr. Fishburn explained that the mitigation outlined in Dr. Straw’s letter actually required restoration of about 3.5 acres, not the 40-plus acres obtained by adding up the gross numbers in the letter.

Chairman Bauman stated that he was ready to sign the DCA agreement. Commissioner Brooks believes the letter received does not agree with what he heard in the meeting. He is concerned with the mitigation issue of replacement of two for one. He is also concerned with saying we may do Lake Surprise but not have the plant capacity to support it.

**Commissioner Wilkinson moved to approve the DCA FEMA Phase II Agreement. Commissioner Tobin seconded the motion. All were in favor and the motion was unanimously approved.**

GM 5 - Status of the System Development Charge / Rate Study
Mr. Fishburn reviewed the information provided. Mr. Fishburn recommended that PRMG conduct the rate study for the $15,000 that was provided in the FY2004 budget. Commissioners Tobin and Brooks were opposed to having a rate study done. Commissioner Tobin requested copies of all the rate studies Mr. Fishburn has referred to and a workshop for feedback prior to conducting a rate study.

Discussion on rate consulting firms ensued.

Chairman Bauman suggested having PRMG at the July 21, 2004 meeting to make a presentation to the Board.

GM 6 - Status of the FEMA Project 1249-25 Funding Agreement

Please see above.

X - Engineer's Report

PE 1 - Report on the Design Review

Mr. Castle reviewed the information presented.

PE 2 - Engineering Status Report

Mr. Castle reviewed the report.

PE 3 - Status of Change Order to add a second floor to the treatment plant for use as office space

Mr. Castle stated that Brown and Caldwell quoted $62,000 for the design of a second floor. It was the consensus of the Board to not pursue the option any further.

PE 4 - Discussion Items from the Haskell Company (presented by Will English)

Mr. English reported that the County Planning Commission signed off on the minor conditional use. Geotechnical work could start after they can have access to the property. The permit for the collection system should be in hand by the end of the month. The County right-of-way and FDOT permits are in hand. The WWTP permit is being commented on and the County is reviewing the building permit.

XI - Public Comment

Mr. Gelbman comments that the 18 acres that is to go back to the County should be considered for a passive municipal park.

XII - Commissioner's Items

CI 1 - Status of the CFO's Position -- Chairman Bauman

The issue was discussed and resolved earlier in the meeting.
No action was taken on the item.

Cl 3 - Update on past agenda items:
A. FEMA FONSI Status
B. Water Quality Testing
C. Resolution of $100K Loan repayment issue
D. Site mitigation
E. KLP vacant lot resolution
F. Project request for FEMA deadline extension
G. CDBG Grants and/or funds for private connections
H. Procedures
I. Web Site Development

No action was taken on the item.

XIII - Meeting Adjournment

Chairman Bauman adjourned the meeting at 9:24 p.m.
KLWTD Board Meeting
July 21, 2004

Item VI

PRMG Presentation
INTRODUCTION TO THE FIRM

Public Resources Management Group, Inc. (PRMG) is an established financial and management consulting firm that specializes in utility rate, financial and strategic planning and management consulting services to the public utility sector. PRMG is located at 341 North Maitland Avenue, Suite 300, Maitland, Florida 32751. The firm’s personnel have extensive experience in finance, economics, accounting, utility cost of service analyses, resource and utility planning, and other related areas, which we believe brings a unique combination of skills and experience to serve our clients with the utmost level of quality.

Our principals have been involved in a wide variety of consulting projects for numerous public clients, which includes the development of utility rates, preparation of financial plans, assistance in securing external funds for capital expansion programs, development of uniform extension policies and developer agreements, presentation of expert testimony on utility financial matters, contract negotiations, and the acquisition and establishment of utilities.

The services PRMG provides to public water, wastewater, reclaimed water, stormwater, solid waste, electric, and natural gas utilities, spans a broad spectrum of utility rate, financial, economic and management services. PRMG services include:

- Rate and Cost of Service Studies
- Bulk Service Rate Studies and Agreements
- Capital Facility Charges and Municipal Impact Fees
- Bond Feasibility Studies
- Valuation and Acquisition Studies, including transitional activities due to the utility transfer
- Contract Negotiations, Developer/Effluent Extension Agreements
- Litigation Services and Expert Testimony
- Strategic Business Planning Services
- Capital Financing and Feasibility Studies
- Customer and Sales Forecasting
- Operational and Management Studies
PRMG in the Florida Keys

- **Florida Keys Aqueduct Authority (FKAA)**
  Services Include:
  - Water Rate Study
  - Bond Financings
  - FDEP SRF Capital Finance Plan (Marathon Central District)
  - Wastewater Financial Plans and Rate Design
    - Little Venice District
    - Conch Key/Duck Key District
    - Bay Point District
  - Water and Wastewater Rule Making Assistance
  - Utility Acquisition Services

- **Village of Islamorada**
  Services Include:
  - Drafting of Utility Rate Policies and Procedures
    - Wastewater Financial Forecast
    - Assistance in Bid Review and Evaluating Alternative Scenarios
    - Contracted to Design Initial Monthly Rate for Service
KLWTD Board Meeting
July 21, 2004

Item LC 4

Discussion of D.N. Higgins Letter
dated 7-14-04
July 14, 2004

Ms. Faith Doyle  
KLWTD Board Clerk  
Key Largo Wastewater Treatment District  
P.O. Box 491  
Key Largo, FL 33037  
Phone: 305-451-5105  
Fax: 407-629-6963  

RE: Contract by and between Douglas N. Higgins, Inc. and Key Largo Wastewater Treatment District

Dear Ms. Doyle:

We are writing regarding the above referenced contract executed on June 25, 2003. The Key Largo Wastewater Treatment District has failed to issue a Notice to Proceed for more than one year. Every year construction costs go up and in the past year construction costs have gone up extraordinarily. The extreme delay of the Notice to Proceed is due to no fault of Douglas N. Higgins, Inc. and therefore we will need compensation for our increased costs.

Once the Notice to Proceed is ready to be issued please notify us prior to issuance. We will document all of our increased costs and submit them to the Key Largo Wastewater Treatment District for review and approval. If the Key Largo Wastewater Treatment District is not willing to compensate Douglas N. Higgins, Inc. for documented increased costs please consider this letter as notification that we are terminating our contract.

Please feel free to contact me at 734-996-9500 with any questions or concerns.

Sincerely

DOUGLAS N. HIGGINS, INC.

Daniel N. Higgins
Vice President

cc: Walter Messer, D.N.Higgins, Inc. Project Manager
From: Thomas Dillon [thomasdillon@terranova.net]
Sent: Wednesday, July 14, 2004 12:16 PM
To: Chuck Fishburn
Cc: Jerry Wilkinson; Gary Bauman (E-mail); Faith Doyle; Cris Beaty (E-mail); Charles Brooks (E-mail); Andrew Tobin; Chuck Fishburn; EdRCastle@aol.com; Jeff Weiler
Subject: Higgins notice

I have just received a fax copy of a letter from Daniel Higgins, Vice President of Douglas N. Higgins, Inc. ("Higgins"), in which Mr. Higgins complains of the failure of the District to issue a notice to proceed.

Mr. Higgins advises that Higgins "will document all of our increased costs and submit them to the [District] for review and approval. If the [District] is not willing to compensate Douglas N. Higgins, Inc. for documented increased costs please consider this letter as notification that we are terminating our contract."

This letter raises a number of legal and factual questions, which are discussed below.

1. Does the Higgins Contract remain in effect?

As I understand the history, there was discussion prior to my becoming the District Counsel of the Higgins contract being possibly terminated and the work being performed by Higgins under a subcontract to Haskell.

I recall, but the minutes do not reflect, that at a District Board meeting in January, Walt Messer of Higgins requested that the District return Higgins' performance and payment bonds. Mr. Bauman said that if Higgins wrote requesting the bonds, they would be returned. To the best of my knowledge and understanding, the letter was never written and the bonds were never returned or cancelled.

At meeting with the B&C and Haskell on 7/8/04, Walt Messer stated that he believed the Higgins contract was dead and that the bond had been cancelled. Obviously, Mr. Higgins thinks otherwise.

The remainder of this email will assume that the Higgins contract is still in effect. This assumption is based on the fact that there has never been an express termination of the contract, and the Higgins position as expressed in its letter of this date, which assumes the continuing effectiveness of the contract.

2. Does the Higgins contract impose limits on the date upon which the District may issue a notice to proceed?

Article II covers preliminary matters. Paragraph 2.3 provides that "A Notice to Proceed may be given at any time within thirty (30) days after written confirmation of receipt by KLVTD of the Florida Department of Environmental Protection grant."

An argument can be made that the District has no power to issue a notice to proceed after the expiration of 30 days receipt of the FDEP grant. However, such a limitation on the power of the District would normally be expressed in more definite terms, and the contract does not provide that Higgins is entitled to any rights or remedies based on a failure to issue a timely notice to proceed.

Note that Article V, Paragraph 5.19, lists the reasons for which the contractor may terminate the contract. Although the contract lists a number of reasons to terminate, failure to issue a timely notice to proceed is not among them.

Therefore, I believe that the better argument is that the District's power to issue a notice to proceed is not limited by Paragraph 2.3, and that failure to issue a timely notice to proceed is a mere delay by the District.

3. What are the remedies available to Higgins for delay?

To the best of my knowledge and belief, no notice to proceed has ever been issued to Higgins. I do not know the
date on which the FDEP grant was received, if at all.

Article VII, Paragraph 7.7, addresses delays and extensions of time.

The first paragraph provides that if the contractor is delayed by any act or neglect of the District, the contractor must give notice of the delay.

The second paragraph provides that "It is expressly agreed that the Contractor's right to seek an extension of time as provided in this Article is the Contractor's sole and exclusive remedy in the event of a delay and that in no event shall the Contractor be entitled to recover damages for any delay, regardless of the cause or causes for such delay."

I believe that an extension of time is the sole remedy available to Higgins as a result of the District's delay.

3. Recommendations.

As noted above, I do not have sufficient information to know whether the District has failed to issue a timely notice to proceed. In order to address that issue, I would need to know whether the FDEP grant has been received, and the date of receipt. I would also like to know what form the parties anticipated "receipt" of the grant would take; as I understand it, the grant funds will not be received by the District until the District has expended construction funds. I assume "receipt" of the grant means something other than receipt of the grant funds. In order to evaluate the remedies available to Higgins, I would like to know the magnitude of the delay and the date on which the FDEP grant was "received."

There are good legal arguments for the proposition that Higgins is not entitled to terminate the contract because of the District's failure to issue a notice to proceed. On the other hand, since the contract was signed, more than a year has elapsed without a notice to proceed. It is not certain that a court or a hearing officer would allow the entire burden of the delay to fall on Higgins. Therefore, I recommend that an effort be made to reach a compromise with Higgins. A compromise might take any of the following paths:

a. Negotiate a mutual termination of the contract with no damages to be paid by either side. This would be preferable to allowing Higgins to cancel unilaterally, since a mutual release would result.

a.1. After termination, negotiate a change order with Haskell to do the work.

a.2. After termination, obtain bids from competent contractors to do the work.

b. Agree to an equitable adjustment whereby the unit prices in the contract are adjusted address additional costs incurred by Higgins as a result of the delay. This would require an analysis of the components of Higgins's unit prices at the time of contracting, and comparing them with actual costs incurred. Some markup would also be required. This approach would be the fastest and possibly the most cost effective approach.

c. Other approaches may be worth considering.

Tom

7/14/04
KLWTD Board Meeting
July 21, 2004

Item AC 1

Approval of the Clerk Employment Agreement
CLERK EMPLOYMENT AGREEMENT

THIS CLERK EMPLOYMENT AGREEMENT ("Agreement") is entered into as of July ___, 2004 between the Key Largo Wastewater Treatment District, an independent special district created by Chapter 2002-337, Laws of Florida (the "District"), and Carol Simpkins ("Clerk").

1. Employment.
   a. The District hereby employs Clerk, and Clerk hereby accepts employment with the District, on the terms set forth in this Agreement. This Agreement is an "at will" agreement. Either party may terminate this Agreement without cause upon 90 days' written notice to the other party. In addition, the District may terminate this Agreement for disability or cause pursuant to Section 8 hereof. Unless sooner terminated, this Agreement shall terminate on July 31, 2006.
   b. Clerk shall serve as the District's Clerk and administrative officer. Clerk shall provide clerk and administrative services and shall perform such duties relating thereto as may be determined and assigned to Clerk from time to time by the District's Board of Directors. Clerk shall report to the District General Manager. Exhibit A to this Agreement sets out the minimum duties of the Clerk.
   c. Clerk shall keep all records that may be required to support any charge by the District against any grant or other funding for work performed by Clerk.
   d. Clerk is a public official as that term is used in the Florida Statutes, and is subject to all ethical and other legal constraints applicable to public officials.
   e. During the term of this Agreement, Clerk shall devote her best efforts, knowledge, skill, and attention to the performance of his duties as aforesaid, except during such periods as Clerk shall be ill, disabled, or on vacation as provided by this Agreement. Clerk shall not accept any other employment for compensation without the prior written consent of the District's General Manager, which consent may be withheld if the District's General Manager reasonably believes that such employment would negatively affect the quality of Clerk's services to the District.

2. Place of Employment. Clerk shall be afforded an office and support services.

3. Compensation.
a. The compensation rate for the CLERK is $53,000 per year.
b. Clerk’s wages shall be payable once each month on the last day, commencing on August 31, 2004.
c. Clerk shall pay the employee’s share of any payroll taxes required under applicable law, by payroll deduction, and District shall bear and be responsible for the employer’s share of any taxes on wages paid as required under applicable law.

4. **Vacation.** Clerk shall be entitled to twelve days of paid vacation during each calendar year. Clerk shall schedule such vacation in consultation with the District General Manager to minimize the inconvenience and other impacts to the District.

5. **Holidays.** Clerk is entitled to the following holidays: New Year’s Day, Birthday of Martin Luther King, Jr. (third Monday in January), Memorial Day, Independence Day, Labor Day, Veterans’ Day (November 11), Thanksgiving Day, Friday after Thanksgiving, Christmas Day. If any holiday falls on a Saturday, the holiday shall be observed on the preceding Friday; if any holiday falls on a Sunday, the holiday shall be observed on the next Monday.

6. **Benefits.** The Clerk understands and agrees that the District has not adopted any employee benefit plans, and that the Clerk shall be responsible for obtaining and providing her own health insurance and other benefits as she deems appropriate.

7. **Travel Expenses.** The District shall pay for or reimburse Clerk in accordance with the District’s standard policies for travel off the island of Key Largo for the purpose of carrying on District business. The District’s standard policies for reimbursement of travel expenses are those set forth in Florida Statutes Section 112.061.
8. **Termination for Disability or Cause.** This Agreement may be terminated by the District, acting through its General Manager, only upon any of the following events:

a. The expiration of 30 days following written notice given by the District General Manager to Clerk of the District's election to terminate this Agreement following Clerk's Disability. "Disability" means the inability of Clerk to perform substantially all of the duties required of Clerk by this Agreement by reason of physical or mental incapacity for a period of one month, or a period of more than 30 days in the aggregate in any 18 month period.

b. A determination by the District General Manager that Cause exists to terminate this Agreement, and written notice of termination for Cause is given by the District General Manager to Clerk. "Cause" means any of the following events or conditions:
   
i. A material breach by Clerk of any material provision of this Agreement.
   
ii. Any act by Clerk in violation of the obligations imposed upon public officials under applicable law.
   
iii. Fraud or other dishonest act by Clerk involving the District.
   
iv. Clerk's conviction of a felony.

Provided that in the case of the foregoing clauses (i) and (ii), "Cause" shall exist only if Clerk fails to cure such breach, within 30 days of receipt of written notice thereof, to the satisfaction of the District General Manager.

c. The death of Clerk.

9. **Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given (a) when personally delivered, (b) on the business day following deposit of such notice with a reputable overnight courier service, or (c) sent by certified mail, return receipt requested, postage prepaid, as follows:

   If to the District:
   
   General Manager  
   Key Largo Wastewater Treatment District
Either party may change such party’s address for the purpose of this Section by written notice similarly given.

10. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable, such provision shall be construed and enforced to the extent possible as if it had been more narrowly drawn so as not to be invalid or unenforceable, and such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement. However, if either party determines in good faith that, as a result of a provision of this agreement being held invalid or unenforceable, this Agreement no longer serves the purposes for which it was written, that party may terminate this agreement upon not less than sixty days’ written notice.

11. Entire Agreement. This Agreement sets forth the parties’ final and entire agreement, and supersedes any and all prior understandings, with respect to the subject matter hereof.

12. Assignment; Ratification of Agreement. No right or obligation under this Agreement may be assigned or delegated by either the District or Clerk without the prior written consent of the other party, and any purported assignment or delegation of any such right or obligation without such consent shall be null and void.

13. No Waiver. No failure or delay by either party in exercising any right, option, power or privilege hereunder shall operate as a waiver thereof, nor shall any
single or partial exercise thereof preclude any other or further exercise thereof, or the exercise of any other right, option, power or privilege.

14. **Amendment.** This Agreement can only be amended, waived or terminated by a writing signed by both the District and Clerk.

15. **Applicable Law.** This Agreement shall be governed by and construed and interpreted in accordance with the internal law of the State of Florida, without reference to its rules as to conflicts of law.

16. **Headings.** The section headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

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

Key Largo Wastewater Treatment District  

Clerk

By  

Charles F. Fishburn  

Its  General Manager

Carol Simpkins
Exhibit A
Minimum Duties for Clerk

A. Certifies and/or attests to required documents and records and is keeper of the Board Seal.
B. Prepares Board agenda and co-ordinates all related materials with staff for all regular meetings, special meetings and public hearings.
C. Advertises all public meeting notices.
D. Attends Board and committee meetings.
E. Records, transcribes and maintains minutes of all publicly noticed proceedings, and distributes the minutes to the appropriate officials and staff.
F. Reviews and attests all resolutions, contracts and work authorizations for proper execution, recording, archiving and distribution.
G. Maintains and updates all Board records and provides for the storage and retrieval of these permanent records.
H. Serves as a contact for Board information and responds to inquiries related to agenda items, public meeting notices, public records requests or other relevant topics.
I. Serves as a notary.
J. Provides reception service including referring phone inquires, mail processing, routing and prioritizing.
K. Assists the General Manager, CFO, District Counsel, and District Engineer, as required.
L. Oversees purchasing and maintenance of office equipment and supplies.
M. Oversees the District web site.
Item AC 2

Approval of the CFO Employment Agreement
CHIEF FINANCIAL OFFICER EMPLOYMENT AGREEMENT

THIS CHIEF FINANCIAL OFFICER EMPLOYMENT AGREEMENT ("Agreement") is entered into as of July ____, 2004 between the Key Largo Wastewater Treatment District, an independent special district created by Chapter 2002-337, Laws of Florida (the "District"), and Martin D. Waits ("CFO").

1. **Employment.**
   a. The District hereby employs CFO, and CFO hereby accepts employment with the District, on the terms set forth in this Agreement. This Agreement is an "at will" agreement. Either party may terminate this Agreement without cause upon 14 days' written notice to the other party. In addition, the District may terminate this Agreement for disability or cause pursuant to Section 8 hereof. Unless sooner terminated, this Agreement shall terminate on May 31, 2006.
   b. CFO shall serve as the District's Chief Financial Officer. CFO shall provide financial officer services and shall perform such duties relating thereto as may be determined and assigned to CFO from time to time by the District's Board of Directors. CFO shall report to the District General Manager. Exhibit A to this Agreement sets out the minimum duties of the CFO.
   c. CFO shall keep all records that may be required to support any charge by the District against any grant or other funding for work performed by CFO.
   d. CFO is a public official as that term is used in the Florida Statutes, and is subject to all ethical and other legal constraints applicable to public officials.
   e. During the term of this Agreement, CFO shall devote his best efforts, knowledge, skill, and attention to the performance of his duties as aforesaid, except during such periods as CFO shall be ill, disabled, or on vacation as provided by this Agreement. CFO shall not accept any other employment for compensation without the prior written consent of the District's General Manager, which consent may be withheld if the District's General Manager reasonably believes that such employment would negatively affect the quality of CFO's services to the District.
   f. This is a part-time position.

2. **Place of Employment.** CFO shall be afforded an office and support services.

3. **Compensation.**
a. The compensation rate for the CFO is $30.00 per hour.

b. CFO's wages shall be payable once each month on the last day, commencing on July 31, 2004.

c. CFO shall pay the employee's share of any payroll taxes required under applicable law, by payroll deduction, and District shall bear and be responsible for the employer's share of any taxes on wages paid as required under applicable law.

4. **Vacation.** CFO shall be entitled to one hour of paid vacation during each calendar year for each 20 hours of time worked. CFO shall schedule such vacation in consultation with the District General Manager to minimize the inconvenience and other impacts to the District.

5. **Holidays.** CFO shall not be entitled to paid holidays. The following days are holidays on which the District office is closed: New Year's Day, Birthday of Martin Luther King, Jr. (third Monday in January), Memorial Day, Independence Day, Labor Day, Veterans' Day (November 11), Thanksgiving Day, Friday after Thanksgiving, Christmas Day. If any holiday falls on a Saturday, the holiday shall be observed on the preceding Friday; if any holiday falls on a Sunday, the holiday shall be observed on the next Monday.

6. **Benefits.** The CFO understands and agrees that the District has not adopted any employee benefit plans, and that the CFO shall be responsible for obtaining and providing his own health insurance and other benefits as he deems appropriate.

7. **Travel Expenses.** The District shall pay for or reimburse CFO in accordance with the District's standard policies for travel off the island of Key Largo for the purpose of carrying on District business. The District's standard policies for reimbursement of travel expenses are those set forth in Florida Statutes Section 112.061.
8. **Termination for Disability or Cause.** This Agreement may be terminated by the District, acting through its General Manager, only upon any of the following events:

   a. The expiration of 30 days following written notice given by the District General Manager to CFO of the District’s election to terminate this Agreement following CFO’s Disability. "Disability" means the inability of CFO to perform substantially all of the duties required of CFO by this Agreement by reason of physical or mental incapacity for a period of one month, or a period of more than 30 days in the aggregate in any 18 month period.

   b. A determination by the District General Manager that Cause exists to terminate this Agreement, and written notice of termination for Cause is given by the District General Manager to CFO. "Cause" means any of the following events or conditions:

      i. A material breach by CFO of any material provision of this Agreement.

      ii. Any act by CFO in violation of the obligations imposed upon public officials under applicable law.

      iii. Fraud or other dishonest act by CFO involving the District.

      iv. CFO’s conviction of a felony.

   Provided that in the case of the foregoing clauses (i) and (ii), "Cause" shall exist only if CFO fails to cure such breach, within 30 days of receipt of written notice thereof, to the satisfaction of the District General Manager.

   c. The death of CFO.

9. **Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given (a) when personally delivered, (b) on the business day following deposit of such notice with a reputable overnight courier service, or (c) sent by certified mail, return receipt requested, postage prepaid, as follows:

   If to the District:

   General Manager
   Key Largo Wastewater Treatment District

   Chief Financial Officer Employment Agreement
   Page 3 of 8

Draft 040708
P.O. Box 491  
Key Largo, Florida 33037  
With a copy to:  

Thomas M. Dillon  
94220 Overseas Highway, #2B  
Tavernier, Florida 33070-3005  

If to CFO:  

Martin D. Waits  
308 Woods Avenue  
Tavernier, Florida 33070  

Either party may change such party's address for the purpose of this Section by written notice similarly given.  

10. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable, such provision shall be construed and enforced to the extent possible as if it had been more narrowly drawn so as not to be invalid or unenforceable, and such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement. However, if either party determines in good faith that, as a result of a provision of this agreement being held invalid or unenforceable, this Agreement no longer serves the purposes for which it was written, that party may terminate this agreement upon not less than sixty days’ written notice.  

11. **Entire Agreement.** This Agreement sets forth the parties' final and entire agreement, and supersedes any and all prior understandings, with respect to the subject matter hereof.  

12. **Assignment; Ratification of Agreement.** No right or obligation under this Agreement may be assigned or delegated by either the District or CFO without the prior written consent of the other party, and any purported assignment or delegation of any such right or obligation without such consent shall be null and void.  

13. **No Waiver.** No failure or delay by either party in exercising any right, option, power or privilege hereunder shall operate as a waiver thereof, nor shall any
single or partial exercise thereof preclude any other or further exercise thereof, or the exercise of any other right, option, power or privilege.

14. **Amendment.** This Agreement can only be amended, waived or terminated by a writing signed by both the District and CFO.

15. **Applicable Law.** This Agreement shall be governed by and construed and interpreted in accordance with the internal law of the State of Florida, without reference to its rules as to conflicts of law.

16. **Headings.** The section headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

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

Key Largo Wastewater Treatment District

Chief Financial Officer

By ________________________________

Charles F. Fishburn

Its General Manager

__________________________________

Martin D. Waits
Exhibit A
Minimum Duties for Chief Financial Officer

A. Establish and maintain financial control, financial reporting, and budgetary controls relating to District revenue and expenditures.
B. Prepare District annual budget and monitor all grant related financial management functions.
C. Provide advice and assistance in risk management functions.
D. Ensure all internal controls are in place to comply with State Statutes, Rules of the Auditor General of the State of Florida, District Policies and the Codification of Government Accounting and Financial Reporting Standards published by the Governmental Accounting Standards Board.
E. Provide cash and investment management, accounting, billing, receivable maintenance, accounts payable, disbursing and general and subsidiary ledger maintenance services for the District.
F. Ensure all cash and investment balances are properly safeguarded and all revenue and expenditures are accurately and timely processed to safeguard the assets of the District.
G. Assist District external auditor in reviewing financial records.
I. Ensure maintenance of District fixed asset records and schedule annual inventory of same.
J. Prepare monthly trial balance, revenue and expenditure reports, grant reports, and reconcile cash, investments, receivable, and payable balances.
K. Assist Monroe County in preparing documents to support MSTU tax levy.
L. Prepare agenda items to meet agenda deadlines of 7 days prior to each meeting.
M. Recurring items:
   a. Payments pending list for Board of Commissioner approval.
   c. Monthly statement of net assets.
   d. Quarterly statement of revenue and expense marked to budget.
   e. Sign checks, obtain second signature for checks over the District’s authorized single signature limit and mail payments to vendors.
N. Non-Recurring items:
   a. Special Studies.
b. Bids and requests for proposals.

c. Grant status reports.

d. Dunn and Bradstreet reports.

e. Assist in preparation of grant requests, including preparing financial schedules to support requests.

f. Prepare grant invoices and submit to grantor agencies.

g. Follow-up with grantor agencies to obtain payments and to respond to grantor agency questions.

h. Prepare bank line of credit requests.

i. Prepare all draw requests as needed from County and other financing sources, and obtain Board of Commissioner approval.

j. Follow up with District Counsel, District Engineer and vendors to clear up causes of payment disapproval.

O. Obtain CAFR printing and submit to State of Florida regulatory agencies, bank and any federally mandated repositories (required for bond compliance if District ever issues revenue bonds to public).

P. Prepare and submit statutory annual financial report to State Department of Banking and Finance after obtaining auditors concurrence. Coordinate with External Auditor prior to submission, as required by Statute.

Q. Perform District risk management functions including obtaining insurance, payment of premiums, filing and monitoring any claims and providing required documentation to insurer.

R. Coordinate with FKAA, Monroe County, Monroe County Clerk of Courts, and state and federal agencies and SFWMD to ensure grant compliance is completed properly. This is designed to avoid any claim for improper expenditure and subsequent refund of grant proceeds.

S. Act as custodian of the District’s books and records, which shall be maintained in accordance with Florida Statutes Section 189.9.

T. Preparing an annual consumer confidence report as required by law.

U. Consulting with, and supervision of, contractors as reasonably required and necessary with regard to construction of capital projects.

V. In consultation with the District Engineer and District Counsel, as appropriate, issuing interpretations and clarifications of contract documents.

a. Evaluating requests for substitutions or deviations therefrom.

b. Providing recommendations concerning requests for substitutions or deviations therefrom.
c. Preparing work orders.

d. Monitoring all required project records.

e. Reviewing applications for payment.

f. Conducting comprehensive inspections of construction projects.

g. Developing list of items needing completion or correction.

O. Provide proof of compliance with funding and grant requirements.

P. Request advances and reimbursements consistent with funding and grant requirements.
Item AC 3

Approval of Resolution 2004-02
TO: Key Largo Wastewater Treatment District Board Members

CC: Charles Fishburn, General Manager
Martin Waits, Chief Financial Officer
Faith Doyle, Clerk to the Board
Thomas Dillon, Board Attorney

FROM: David R. Miles, Chief Financial Officer

DATE: July 14, 2004

RE: Resolution 2004-02 – Authorized Signatories on KLWTD Bank Accounts

Dear Commissioners:

Attached is Resolution 2004-02, which provides changes to the authorized signatories for the Key Largo Wastewater Treatment District’s bank accounts. This resolution provides for the removal of previous General Manager (Robert E. Sheets) and Chief Financial Officer (David R. Miles) as authorized signatories and adds new General Manager (Charles F. Fishburn) and Chief Financial Officer (Martin D. Waits). Chairman Gary Bauman and Secretary Cris Beaty will remain as authorized signatories.

This resolution is proposed to be effective on August 1, 2004 to allow time for all signature cards and other required TIB Bank documents to be signed by all signatories and to insure payments approved on the July 21, 2004 agenda are paid without delay.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
RESOLUTION 2004-02

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, DESIGNATING THE GENERAL MANAGER AND CHIEF FINANCIAL OFFICER AS AUTHORIZED SIGNATORIES OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT’S BANK ACCOUNTS

WHEREAS, the Board of Commissioners of the Key Largo Wastewater Treatment District desire to designate the general manager and the chief financial officer as authorized signatories of the Key Largo Wastewater Treatment District’s bank accounts;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT THAT:

1. The Board hereby designates Charles F. Fishburn, General Manager and Martin D. Waits, Chief Financial Officer as authorized signatories of the Key Largo Wastewater Treatment District’s bank accounts.

2. The authority to sign all checks and other legal instruments on behalf of the Key Largo Wastewater Treatment District, pertaining to the TIB Bank of the Keys, account number 20154139006, and such other accounts as the Board may authorize to open in the future is hereby provided. This authority supersedes and replaces all prior authorizations by this Board.

3. The Board Chairman, Gary Bauman and Board Secretary, Cris Beaty remain as authorized signatories on the Key Largo Wastewater Treatment District account.

4. The previous General Manager, Robert E. Sheets and Chief Financial Officer, David R. Miles will no longer be authorized to sign instruments on the Key Largo Wastewater Treatment District’s bank accounts.

5. This change shall be effective August 1, 2004.
PASSED AND ADOPTED this 21st day of July, 2004.

KEY LARGO WASTEWATER TREATMENT
DISTRICT GOVERNING BOARD

____________________________________
Chair, Key Largo Wastewater Treatment District

____________________________________
Secretary, Key Largo Wastewater Treatment District
KLWTD Board Meeting
July 21, 2004

Item AC 4

Approval of Change Order No. 2 to the Haskell Contract
CHANGE ORDER AGREEMENT
Key Largo Wastewater Treatment District

<table>
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<th>Contract No.:</th>
<th>Design-Build Wastewater Treatment System</th>
<th>Change Order No.:</th>
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<tbody>
<tr>
<td></td>
<td>Key Largo Trailer Village Area</td>
<td>002</td>
</tr>
<tr>
<td></td>
<td>(The Haskell Company)</td>
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The following changes to the Contract are hereby made part of the Contract Documents.

I. ORIGINAL CONTRACT PRICE
   Price of all previous Change Orders $7,970,000.00
   PRICE of this Change Order $73,767.00
   The Current Contract Price including this Change Order $8,043,767.00

II. ORIGINAL CONTRACT COMPLETION DATE
    Original Substantial Completion Date August 1, 2005
    Total of all previous Contract Time Adjustments 0 Days
    Contract Time Adjustment this Change Order 162 Days
    Revised Contract Time N/A
    Revised Substantial Completion Date January 11, 2006

III. WORK CHANGED BY THIS CHANGE ORDER

<table>
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<tr>
<th>Item</th>
<th>Change Proposal</th>
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<th>Description</th>
<th>Cost</th>
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In various letters, Haskell has requested additional time totaling 162 days on account of delay in selecting a secondary treatment process (Haskell issue No. 01-003), and has contended that it may be entitled to additional time for other causes. The District does not agree that Haskell has demonstrated entitlement or causation for any amount of additional time or additional compensation.

As a partial settlement of these issues, the District has agreed to grant Haskell 162 days of additional time, and Haskell has agreed that it shall not seek compensation for overhead or indirect expenses in connection with that additional time granted. Haskell retains the right to seek additional compensation for any direct costs of labor or materials in connection with Haskell issue No. 01-003, and additional time and compensation for other delay incidents, and the District will evaluate such contentions when they are made to determine whether Haskell has demonstrated entitlement, causation, and quantum.

All requirements of the original Contract Documents shall remain in full force and effect except as modified herein. Work or services affected by this Change Order are subject to all provisions of the original Contract Documents not specially changed by this Change Order. K.L.W.T.D and THE HASKELL COMPANY agree that the sum agreed to in this Change Order constitutes a full and complete settlement of the issues set forth in this Change Order. THE HASKELL COMPANY accepts the terms of this Change Order as full compensation for all costs of equipment, manpower, materials, overhead, profit and delay damages, and for all its costs, whether direct or indirect, or whether incurred now or in the future, related to the issues set forth in this Change Order.
KLWTD Board Meeting
July 21, 2004

Item AC 5

Approval of Amendment No. 1 to the Haskell Contract
July 14, 2004

Re: Wastewater Management System For The Key Largo Trailer Village Area Key Largo, Florida Issue No. 01-029 – Contract Amendment No. 1

Mr. Chuck Fishburn
KLWTD General Manager
Post Office Box 491
Key Largo, Florida 33037

Dear Mr. Fishburn:

Per your request, please find two copies of the executed Contract Amendment No. 1. As you are aware, our concern with executing this document was exposing our company to cost prior to project funding being fully secured. In that regard, we respectfully request that the District provide The Haskell Company copies of associated funding documents as they become available to demonstrate the District has received “reasonable assurance” that federal funds will be received.

Should you have any questions or require further information, please do not hesitate to contact me at (904) 357-4225.

Sincerely,

Peter M. Kinsley
Division Leader

Enclosures

cc: Thomas Dillon
Contract File
Issue No. 01-029
AMENDMENT NUMBER ONE
TO
DESIGN-BUILD AGREEMENT
BETWEEN
KEY LARGO WASTEWATER TREATMENT DISTRICT
AND
THE HASKELL COMPANY

WHEREAS, under date of June 25, 2003, the Key Largo Wastewater Treatment District ("KLWTD") and The Haskell Company ("Haskell") entered into a written Design-Build Agreement; and

WHEREAS, the parties desire to amend the Design-Build Agreement;

NOW, THEREFORE in consideration of the premises, and in further consideration of the premises below, the parties agree that the Design-Build Agreement shall be, and hereby is, amended as follows:

1. On Page 1, revise the underlined paragraph to read as follows:

Notice to CONTRACTOR of a default or termination in connection with this Agreement, shall be sent to the attention of Peter M. Kinsley or such other representative as the CONTRACTOR shall designate in writing. Notice to the KLWTD of a default or termination in connection with this Agreement shall be sent to Charles F. Fishburn or such other person as the KLWTD shall designate in writing, with an additional copy to be sent to Thomas M. Dillon, 94220 Overseas Highway, Unit 2B, Tavernier, Florida 33070-3005 or such other person as the KLWTD shall designate in writing. All other notices to the parties shall be given to the Representatives of the parties, as designated, at their respective addresses.

2. On Page 1, change the contact information for the KLWTD Representative to:

Charles F. Fishburn, General Manager
Key Largo Wastewater Treatment District
P.O. Box 401
Key Largo, Florida 33037

3. On Page 43, add a new Paragraph 7.5, to read as follows:

7.5 Prompt Pay Act Clause

Notwithstanding any other provision of this Agreement concerning payment to the CONTRACTOR, for purposes of determining when payment is due, the parties acknowledge and agree that no payment will be made to the CONTRACTOR until such payment is approved by the Board of the KLWTD. Further, the CONTRACTOR acknowledges and agrees that a significant portion of the funds with which the KLWTD will pay the CONTRACTOR are federal funds, and payment may be contingent on receipt of federal funds or federal approval. To the extent that the KLWTD has not received any required federal funds or required federal approval, the time within which the KLWTD is required to pay the CONTRACTOR for services
under this Agreement shall be extended until such federal funds or federal approval has been received. The KLWTD will exercise reasonable diligence to ensure that all requests for federal funds and federal approvals are complete and timely submitted. The KLWTD will not issue a Notice to Proceed to the CONTRACTOR for any work for which the KLWTD intends to pay with federal funds until after the KLWTD has received reasonable assurance that federal funds to cover the cost thereof will be received.

IN WITNESS WHEREOF, the parties have executed this Amendment Number One to the Design-Build Agreement on the dates opposite their names in two counterparts, each of which shall, without proof or accounting for the other counterpart, be deemed an original Agreement.

CONTRACTOR
The Haskell Company, Inc.

By: ________________________________
    Pete A. Kersey

Its: ________________

Name: ______________________________

Date: __________________

KLWTD
Key Largo Wastewater Treatment District

By: ________________________________
    Gary Bauman

Its: ________________________________
    Chairman

Date: __________________

Attest:

By: ________________________________
    ________________________________
    Name: Cris Beaty
    Its: Secretary/Treasurer

Date: __________________

By: ________________________________
    ________________________________
    Name: Faith Doyle
    Its: Board Clerk
KLWTD Board Meeting
July 21, 2004

Item CFO 1

Approval of the Pending Payments List for July 21, 2004
TO: Key Largo Wastewater Treatment District Board Members

CC: Charles Fishburn, General Manager
    Faith Doyle, Clerk to the Board
    Thomas Dillon, Board Attorney

FROM: David R. Miles, Director of Finance

DATE: July 13, 2004

RE: Pending Payments Key Largo Wastewater Treatment District

Dear Commissioners:

This agenda item is designed to provide an update on the financial status of the Key Largo Wastewater Treatment District. As of July 13, 2004 the District had $68,688.60 in its bank account. We have $29,799.66 in invoices in-hand for payment by August 4, 2004. Exhibit A is the list of currently outstanding invoices pending payment. As requested by the Board at the January 14, 2004 meeting, separate accounting of cash balances are shown as follows as of July 13, 2004:

| Administration & Operations | $204,514.47 |
| Key Largo Park:             | (51,002.08) |
| Key Largo Trailer Village: | (84,823.79) |
| Total                      | $ 68,688.60 |

A request for $129,607.00 for Monroe County matching funds for use in the Key Largo Park project, submitted March 23, 2004 is still pending. A follow-up letter was sent May 27, 2004. We have also followed up numerous times with George Garratt telephonically. This funding is essential to get the KL Park cash flow in the black.

Draw Request number 3 in the amount of $55,423.46 for the FY 2004 MSTU funds was received from Monroe County on July 2, 2004 covering March, April and May disbursements by the District.

Negotiations are pending with Miles Anderson of DCA concerning drawing down of FEMA Phase II funding. Now that the FEMA Phase II agreement has been signed, we should be able to obtain this essential funding advance for the Key Largo Trailer Village project.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
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Approved for Payment:

Gary Bauman, KLWTD Chair
Cris Beaty, KLWTD Secretary

Payment Category Key:
1- District Administration
2- Key Largo Park Construction
3- Key Largo Trailer Village Construction
KLWTD Board Meeting
July 21, 2004

Item CFO 2

Presentation of the Draft
FY2005 Operations Budget
TO: Key Largo Wastewater Treatment District Board Members

CC: Charles Fishburn, General Manager
    Faith Doyle, Clerk to the Board
    Thomas Dillon, Board Attorney

FROM: David R. Miles, Director of Finance

DATE: July 14, 2004

RE: FY 2005 Operating Budget- Draft #1

Dear Commissioners:

Attached is the first proposed draft of the operating budget for the Key Largo Wastewater Treatment District for FY 2005. We have also made preliminary projections for the period FY 2006-2009. These projections in large measure are dependent upon the progress the District makes towards obtaining its goal of providing sewer service to all real property parcels on Key Largo. Because of recently approved changes to the capital program of the District, we propose to have a separate discussion of the District’s capital program at the August 4, 2004 meeting.

The operating budget is significantly different in FY 2005 compared to the two prior years, not in format, but in operational philosophy. This budget provides for the employment of two full time and one part time employee positions, in addition to the Board member salaries. It provides for the phasing out of the contractual managerial support provided to the Board in the last two years. Small, but declining amounts are budgeted for consultation in the early years to support the transition to an in-house staff.

It will be necessary to obtain computer support, particularly for the accounting function and subsequently for the customer billing function. The need for an Internet web site has also been discussed for the district. We have therefore included $10,000 per year for the lease of necessary software and other contractual arrangements for these services.

A series of assumptions have been made concerning the progress in completing the construction of the capital assets of the district. These assumptions have a bearing on the cost of delivering services and the revenue streams that can be expected, particularly in FY 2006 and thereafter. The assumptions are as follows:

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
• The Monroe County Property Appraiser has provided staff a projection of the Key Largo MSTU assessed values for 2004 of $2,642,564,644. These values represent a 17.29 percent increase over the 2003 values of $2,253,097,004. Assuming the millage rate remains the same at 0.35 mills, this will generate $827,685 in FY 2005 revenue. It is expected that this revenue source will expire at the end of FY 2007 and the Monroe County agreement will not be renewed after the initial term.

• The first of the 850 EDU’s in Key Largo Trailer Village and Key Largo Park will begin to be served by the newly constructed plant in early FY 2006 (October 2005). About two thirds of the ultimate monthly fee revenue for these two projects is projected to be received in FY 2006, with the full amount being received in FY 2007. These numbers were based on a monthly flat fee of $35.00 per EDU.

• It is estimated that five (5) percent of the Key Largo Park and Key Largo Trailer Village connection fees will be received in FY 2005 with the remainder received in FY 2006. A connection fee of $2,700.00 per EDU was used.

• The Lake Surprise Force Main and related projects in neighborhood communities is projected to have construction completed by the end of FY 2007 and to begin providing services in FY 2008. An estimate of 3,000 EDU’s has been assigned for budgetary purposes to this project. This number will be refined based on the recently approved Weiler Engineering work order and future grant approval of funding amounts.

• Estimates of receipt of monthly fee revenue from the Lake Surprise project are based on two-thirds being received in FY 2008 and all customers paying in FY 2009. Likewise, collection of connection fees is based on five percent in FY 2007 with the balance received in FY 2008 and FY 2009.

• The district will begin sending monthly invoices to customers in FY 2006, with a significant increase beginning in FY 2008 for the Lake Surprise project.

• The budget funds a full time General Manager and Board Clerk and a part time CFO in FY 2005. No additional positions are funded in FY 2006 or thereafter, but funding for contractual operation, maintenance, customer service and billing functions are included for FY 2006 and thereafter. These functions can be brought in-house based on Board direction in a future budget year as requirements are better defined.

• We have increased the insurance premium line beginning in FY 2006 and further in FY 2008 to reflect the need to add property and casualty coverage for the newly completed wastewater plant.

• We have included $120,000 for special projects and $15,000 for a contractual rate review in the FY 2005 budget.

This draft-operating budget is a planning tool for the Board and management. Constructive comments and improvements are always welcome.
# Five Year Operating Forecast

## Key Largo Wastewater Treatment District

### OPERATING REVENUE

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**Subtotal Operating Revenue:** $381,463

### NON-OPERATING REVENUE

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**Total Revenues:** $381,463

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<td>Special Projects</td>
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<td>Computer Support</td>
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**Total Operating Expenses:** $328,305

### NON-OPERATING EXPENSES

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<tbody>
<tr>
<td>Capital Expenditures from Operating Account</td>
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<tr>
<td>Renewal and Replacement Transfer</td>
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<tr>
<td>Debt Service Transfer (Monroe County $500,000 Loan)</td>
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</table>

**Total Non-Operating Expenses From Operating Revenue:** $17,039

**Total Non-Operating Expenses Paid From Operating Revenue:** $345,344

**Total Non-Operating Expenses Paid From Non-Operating Revenue:** $17,039

**Total Non-Operating Expenses:** $345,344

**Total Expenses:** $328,305

**Total Operating Surplus:** $1,024,388

**Total Non-Operating Surplus (Deficit):** $1,024,388

**Total Fund Surplus/(Deficit):** $1,024,388

**Cumulative Fund Surplus:** $1,024,388

Prepared: July 14, 2004
KLWTD Board Meeting
July 21, 2004

Item CFO 4

Status of Transition of the CFO Function
## OVERVIEW OF CFO TRANSITION PLAN

<table>
<thead>
<tr>
<th>KEY ELEMENT</th>
<th>RESPONSIBILITY TRANSFER TARGET</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payroll Function</td>
<td>August 1</td>
<td>Continue Paychex</td>
</tr>
<tr>
<td>Checking Account</td>
<td>August 1</td>
<td>Change Signatories</td>
</tr>
<tr>
<td>Transfer Financial Records</td>
<td>August 8</td>
<td>Five file drawers</td>
</tr>
<tr>
<td>Payables Function</td>
<td>August 31</td>
<td>Overlap 8/1 – 8/15</td>
</tr>
<tr>
<td>All Accounting Functions (Note 1)</td>
<td>August 31</td>
<td>Overlap 7/15 – 8/31</td>
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<tr>
<td>Budget Function (Note 2)</td>
<td>August 31</td>
<td>Overlap 7/15 – 9/30</td>
</tr>
<tr>
<td>Grant Management</td>
<td>August 31</td>
<td>GSG Consulting</td>
</tr>
</tbody>
</table>

Note 1   Anticipate implementing local software by August 15, then completing installation and data entry concurrent with initial execution of responsibilities.

Note 2   Fiscal 2004 – 2005 budget preparation will be a joint effort through completion and approval.
KLWTD Board Meeting
July 21, 2004

Item GM1

Status of the Kings Kamp Letter
Gino F. Angella, President, Jupiter Global Inc.
General Partner of Kings Kamp LLLP and Captain Jax LLLP
P.O. Box 1805
Dania Beach, Florida 33004-1805
Phone: 954-921-6094
Fax: 954-923-2851
Email: angella@kingskamp.com

July 4, 2004

Charles F. Fishburn
General Manager
Key Largo Wastewater Board
161 Dubonnet Road
Tavernier, Florida 33070

RE: Captain Jax and Kings Kamp

Dear Mr. Fishburn,

Enclosed please find a set of the sewage collection plans we have submitted to the building department for approval to construct our collection system via Third Generation Plumbing, Contractors. Please note it is a gravity system with a force main from the collection points to the highway area where will be place our treatment plant.

In the near future when the Key Largo Wastewater Board installs its force main along the highway we plan to hook into the new system. Please consider the addition of our volume to the system yet to be designed.

If you have any advise, questions or comments to help us in this endeavor, they will be gladly appreciated. Please call me, email or fax anytime.

Thank you

Gino F. Angella, President
July 4, 2004

Charles F. Fishburn
General Manager
Key Largo Wastewater Board
161 Dubonnet Road
Tavernier, Florida 3370

RE: RV Parks, Campgrounds and Trailer Parks

Dear Mr. Fishburn,

Due to improper levying of special assessments by local governments, RV Parks, Campgrounds and Trailer Park owners in several Counties across Florida have had to engage in costly legal battles. These legal battles were a result of local governments not treating these entities according to the law.

As an owner of such a property here in Monroe County, I am concerned about the special assessment or impact fees being considered by the Key Largo Wastewater Board and similar quasi governmental agencies throughout Monroe County. I want to insure that myself and other owners of similar property are being assessed as a commercial entity as declared in Florida Statutes 125.0168 which states that special assessments levied on property like ours “shall not be based on the assertion that the park is comprised of residential units. Instead, parks that are regulated under chapter 513 shall be assessed as a commercial entity in the same manner as a hotel, motel or other similar facility”.

Florida Law clearly states that property as described here, is to be treated as commercial property, yet local governments in Hendry, Lee, Marlon, Polk and Glades Counties have chosen to assess parks as residential units. In doing so, these local governments spent taxpayer dollars fighting court cases that they eventually lost.

As a Park owner and a member of the Florida Association of RV Parks and Campgrounds, our position as an industry is that the intentions of the law must be thoroughly understood and implemented accordingly. Taxing or assessing Trailer parks, Campgrounds, RV Parks per residential unit for fire, emergency medical services, sewage impact fees etc is wrong and in our opinion not in accordance with the law. These are commercial entities and should be taxed as such. I have attached seven additional pages of information and a copy of the actual Florida State Statute.

Thank you for your continued support and keen attention to this matter.

Sincerely yours,

Gino F. Angella

CC: All County Commissioners
    All Key Largo Wastewater Board Members
Who Needs To Know Our Issue?

It is important that members of ARVC communicate with elected officials at the local levels to make sure they are aware of our position regarding F.S. 125.0168.

You can help in these efforts by writing letters to your county commissioners and city council members. Some key items to keep in mind when communicating to elected officials:

- Florida Statute 125.0168 created uniform standards for RV parks, which require counties to tax campgrounds using the same criteria they use to tax hotels and motels. This law treats RV parks and campgrounds the same as other commercial entities, such as, hotels, motels, Wal-Mart, grocery stores, etc.

- Campgrounds and RV parks are regulated by Florida Statute 513 and are classified as commercial properties and should be billed as commercial entities.

- Local government in Polk, De Soto, Lake, Osceola, Glades, Pembroke Pines and Broward counties have excessively assessed campgrounds for emergency service fees. Litigation has occurred in these cases and local government has consistently lost.

Avoiding the fight in your county:

- Local government is often unaware of the litigation that has resulted from improper tax assessments for RV parks and campgrounds. Educate your local officials on the lawsuits that have occurred in other counties and the consistent ruling of the courts in favor of campgrounds.

- If your county or city commission is considering a special assessment, act quickly by sending them the letter and background materials contained in this kit. Educating your local government on the proper assessment of fees in accordance to the law is the only way to protect yourself from excessive tax assessments and the expense of a legal battle.
KLWTD Board Meeting
July 21, 2004

Item PE1

Report on the Design Review
Design Review Status

The 90% WWTP drawings were received. WEC has reviewed the documents and provided written comments. See attached. The review meeting is scheduled for 9:00 AM on Thursday, July 15th. Jeff Weiler will be attending in Ed Castle’s place. A verbal update will be provided at the Board meeting.
KLTV WWTP 90% Design Review Comments

General comments:

- We need the chemical feed pumps to run off the Fluidyne PLC so we can time chemical additions to coincide with biological processes and with effluent pumping through filters.
- I like the biological odor control, but am not sure how the air handling works. The discharge from the vacuum pumps is positive pressure and will vary depending on how many, if any, pumps are running at a given time. Can the system accommodate this and still pull air from the screenings and anaerobic chambers??
- As shown, I believe the vacuum collection tank vault would require confined space entry permits to access it. We need to be able to get in there with tools easily, need access to pull the capacitance probes, pumps and motors, work the division valves, etc. I think we need more hatches, some ventilation, and stairs to meet requirements for regular access. Alternatively, provide hatches as on typical valve vaults, provide valve stem wrenches and above-grade vacuum gauges.
- The hoist on the WWTP looks good. Put sockets to accept that everywhere, and provide a pallet jack or something for moving the vacuum pumps to the loading dock and we should be OK. Just need more detail in some areas.
- Access to areas of the WWTP, filters, CCC, digester, etc is too limited. Also, grating covers access to some valves and pumps. How are anoxic, WAS and motive pumps mounted? Rails?
- Disposal wells are shown as 6" but permit application references 8".
- Access to chemicals tough due to containment walls. How do we get drums in and out?
- We need actuated valves on the influent to each of the ISAMs so we can stop introduction of ammonia to the SAM reactor during anox mix in the SBR. I anticipate needing reaeration to remove excess acetate, but if we are dumping ammonia into the SAM during anox, it will carry over into the SBR on final reaeration and show up either as nitrates or ammonia.

I also think it is past time to get some detailed literature from Fluidyne and RoeVac, particularly on their controllers and the monitoring systems. We are getting an autodialer, aren't we?

<table>
<thead>
<tr>
<th>Sheet No.</th>
<th>Comments</th>
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<tbody>
<tr>
<td>G</td>
<td>Need abbreviations and symbols for mechanical, G2 &amp; G3 from permit set</td>
</tr>
<tr>
<td>G300</td>
<td>What is Q of process drain pumps</td>
</tr>
<tr>
<td>EC300</td>
<td>Show clear 2.6 acres, all sheets</td>
</tr>
<tr>
<td>C1</td>
<td>Need catch basin detail</td>
</tr>
<tr>
<td>C2</td>
<td>Size water service and RPS for future needsC3</td>
</tr>
<tr>
<td>C3</td>
<td>Note 8 for fencing references C103 and C501, non-existent sheets</td>
</tr>
<tr>
<td>C301</td>
<td>Stairs on digester/ EQ appear to be in tank, clarify</td>
</tr>
</tbody>
</table>

Prepared for the KLWTD Board by:
Ed Castle, Project Manager
| C305 | - Where is digester decant piping  
      - 8" FA line tied to 3" PD line – meant to drain odor control system? |
<table>
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<tr>
<td>L300</td>
<td>Increase to 2.6 acres</td>
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<tr>
<td>S</td>
<td>General comments from WEC structural</td>
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<tr>
<td></td>
<td>- District is better served by designer selecting foundation type</td>
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<td></td>
<td>- Keyed appears to mean a scarified contact and would offer</td>
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<tr>
<td></td>
<td>questionable uplift resistance</td>
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<tr>
<td></td>
<td>- Anchor bolts by manufacturer does not adequately address tie-down</td>
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</table>
| S300 | **Vacuum vault top plan**, need access to pull pumps, capacitance probes, etc  
      | Access thru 4’ X 4’ hatch only, ladder, not stairs? General comments on vault:  
      | - It appears this will be a permit-required confined space, not acceptable |
|      | - Needs ventilation                                              |
|      | - Needs lighting                                                  |
|      | - Easy access for men and tools                                   |
|      | - Vacuum gauges from vacuum mains must be visible while working division valves  
      | *Alternatively, design top as typical valve vault with access hatches, provide valve stem wrenches to operate valves from above, position vacuum gauges above-ground where visible to operator.* |
| S303 | **Show workbenches, vacuum valve work station**                   |
| S306 | CCC length:width ratio at centerline 8:1, minimum is 10:1, with 40:1 preferable. Short-circuiting likely. Recommend install baffles |
| S307 | Need safe access to chemical storage. Containment prevents access |
| M    | **General Comments**                                              |
|      | - Show hoist sockets for pulling all pumps, motors               |
|      | - Provide gantry or pallet jack for moving vacuum pumps, motors to loading dock |
| M300 | **Install division valve on 3” vacuum main**                      |
| M303 | - Grating does not provide adequate access to equipment for maintenance, WWTP, decant valves, filters, CCC |
|      | - How do we access the anaerobic/trash trap for measurements, pumping? |
|      | - Grating covers valves, pumps, need access hatches               |
| M304 | - Pump mounting systems? Rails? For WAS, motive, anox mix?        |
|      | - What is meant by Influent Diffuser Assembly?                     |
| M305 | **Stairs into EQ tank?**                                         |
| M306 | - Grating in way of pulling anox and WAS pumps                    |
|      | - No access to WAS valves on SAM tank                            |
| M307 | - 2” FE line from filters to sedimentation basin, is this the backwash flow?  
      | - Clarify chemical containment and access                          |
|      | - Valves needed on suction side of backwash pumps                 |
|      | - Valves needed on effluent piping at discharge from CCC          |
|      | - Adequate isolation valving on SE feed to filters?               |
| M308 | - Permit application states two 8” wells to 110 feet, plan shows two 6”  
      | - Sample tap on crown of pipe, dry? Suggest sampling at end of CCC |

*Prepared for the KLWTD Board by:*  
*Ed Castle, Project Manager*
<p>| | |</p>
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</table>
| **M310** | - Add damper on FA line from screening  
- 8” FA from vacuum pumps will be positive pressure, varying feed rate depending on how many pumps running. Can odor fan deal with this? Still pull suction on anaerobic and screening FA lines?  
- C305 shows 3” PD tied into 8” FA line, and 8” FA line sloped toward sump. Is FA line to drain the odor control tanks? M310 detail shows inlet to tanks elevated. |
| **P300** | - Vent on HOCl tank?  
- Bypass piping and valves around RS flow meter (for servicing meter)  
- Process drain piping isolation valve  
- Place two valves, one each leg of 1” HOCl line  
- Blow back piping to HOCl tank from PCV  
- PCV settings?  
- Effluent meter shown as diaphragm valve  
- Bypass piping and valves around effluent flow meter  
- Isolation valves on HOCl rotameters |
| **P301** | - Blowback piping on alum and SA PCVs  
- Isolation valves downstream of check valves  
- Drum vents?  
- Again, how do we get drums in and out of the containment structure? |
| **E300** | Is lightning protection provided? |
| **E6** | - 30-amp disconnects shown for all loads, smaller will do  
- 300 amp disconnect to Fluidyne panel seems large |
Item C1

Report on the Florida Keys Water Quality Improvement Program Meeting
Florida Keys Water Quality Improvements Program (FKWQIP)  
Program Management Team (PDT)  
Agenda  
July 9, 2004  
Meeting Location: Marathon Government Center, Marathon, FL  
10:00 AM to 1:00 PM  

10:00 - 10:10 am  
WELCOME AND INTRODUCTIONS (Cecelia Weaver, SFWMD/Shelley Trulock, Corps)  

10:10 - 10:15 am  
NEW BUSINESS (Cecelia Weaver, SFWMD/Shelley Trulock, Corps)  

10:15 - 10:30 am  
STATUS OF FEDERAL APPROPRIATIONS FY 04 AND FY 05  
(Shelley Trulock, Corps)  

10:30 - 10:30 am  
STATE FUNDING (Fred Banks, FDEP)  

10:30 - 11:00 am  
STATUS OF PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT/REVIEW OF PUBLIC COMMENTS & ENVIRONMENTAL JUSTICE ISSUE (Tom St. Clair, EPJv and Shelley Trulock, Corps)  

11:00 - 11:30 am  
STATUS OF PRIORITY PROJECTS (Report from each Municipal Government)  

11:30 - 11:45 am  
BREAK  

11:45 - 12:15 am  
LOGISTICS OF REIMBURSEMENT (John Pax, Corps)  

12:15 - 12:30 pm  
NEPA STRATEGY FOR PRIORITY PROJECTS (Tom St. Clair, EPJv)  

12:30 - 12:45 pm  
ALLOCATION STRATEGY FOR ALLOCATION OF AVAILABLE FUNDS (Trish Carney, EPJv)  

12:45 - 12:55 pm  
FUTURE ACTIONS (Shelley Trulock, Corps/Cecelia Weave, SFWMD)  

1:00 pm  
ADJOURN
Section 109. Florida Keys Water Quality Improvements.
(a) Secretary of the Army may provide technical and financial assistance to carry out projects for the planning, design and construction of treatment works to improve water quality in the Florida Keys National Marine Sanctuary

(b) Before a cooperative agreement, the Secretary shall ensure
   (1) NFS has completed adequate planning and design, as applicable
   (2) NFS has completed a financial plan identifying sources of NF funding
   (3) Project complies with
       (A) applicable growth management ordinances of Monroe County
       (B) applicable agreements between Monroe County and State of Florida to manage growth
       (C) applicable water quality standards
   (4) is consistent with the master wastewater and storm water plans for Monroe County

(c) Consideration in selecting projects, consider a project that has substantial water quality benefits relative to other projects

(d) Consultation, the Secretary shall consult with
   (1) Water Quality Steering Committee est. under ...
   (2) South Florida Ecosystem Restoration Task Force
   (3) Commission on the Everglades
   (4) Other appropriate State and local government officials

(e) Non-Federal Share
   (1) 35 %
   (2) Credit
       (A) Secretary may provide Credit
           (i) before and during the construction for the project, for the costs of planning, engineering, and design, and for the construction management work that is performed by NFS and that the Secretary determines is necessary to implement the project.
           (ii) during construction for construction by NFS that the Secretary determines is necessary to carry out project.
       (B) Credits may be carried over between projects

(f) Authorization of Appropriations—authorized to be appropriated $100,000,000.
FKWQIP
POT
July 9, 2004

Name          Organization        Telephone     Email
Tom St. Clair  ENTV              904.232.1774    toms.cue@gaa.us
Patricia Carney  EPJV                305.514.3818  pacarney@epjv.com
Lecia Ono   336-273-2743    @336-273-2743
John Pax  Corps/Enginers          904-232-1168  john.a.pax@us.army.mil
Jim McCampy  Monroe County       305.289.2117  mcampjtm@monroecounty.com
John Szatny  Marathon             305-748-0633  jszatny@mc.gr
Bill Kuczyński  U.S. EPA         305-743-0572  bkuczywnski@csme.epa.gov
Jim Reynolds  FMA                 205-35-3754  jreynolds@fma.com
Norman Anderson  Layton            305-664-4611  nanderson@layton.com

Gus Rios  FDEP                  305-240-1216  gus.r.rios@fdep.state.fl.us
Tim Banks  FDEP                850-245-8360  tims@fde.com
Turkel DoG     City of Naples   305-289-1212  wilhelm-bradley@cityofnaples.com
Bill Brookman  Monroe Health Dept  305-853-1900  clark.brookman@monroecounty.com
Clarence Feagin  DCA           305-284-2402  clarence-feagin@ncl.us
Kirk Zuelch  FKAA                 305-276-2402  kzuelch@fkaa.com
Ray Shimokawa  FICA             904-232-3092  ray.shimokawa@fica.com
Skip Haring  Layton             305-664-4946  haring@juno.com
Shelley Trulock  COE           904-232-3092  shelley.f.trulock@army.mil
Charles Fishburn  KLWTD        305-852-2777  cffishburn@fowl
Charles Brooks  KLWTD            305-451-5871  cbr901@fowl
Cindy Lawson  Islamorada      305-664-2745  clawson@fl.us
Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Agenda
5:00 PM Wednesday, July 21, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

I - Call to Order

II - Pledge of Allegiance

III - Additions, Deletions or Corrections to the Regular Meeting Agenda

IV - Approval of the Draft July 7, 2004 Meeting Minutes

V - Public Comment

VI – PRMG Presentation on Rate Study

VII - Legal Counsel’s Report

   LC 1 - Haskell Notice of Delay – Draft Change Order No. 2
   LC 2 – Prompt Pay Act Am. No. 1 to the Haskell Contract
   LC 3 – Status of Calusa Condo Document Review
   LC 4 – D.N. Higgins letter dated 7-14-04

VIII - Action Items

   AC 1 – Approval of the Clerk’s Employment Agreement
   AC 2 – Approval of the CFO’s Employment Agreement
   AC 3 – Approval of Resolution 2004-02 Authorized Signatories on K LWTD Bank Accounts
   AC 4 - Approval of Change Order No. 2 to the Haskell Contract (182 day extension)
   AC 5 – Approval of Amendment No. 1 to the Haskell Contract

IX - Chief Financial Officer’s Report

   CFO 1 - Approval of the Pending Payments List for July 21, 2004
   CFO 2 – Presentation of the Draft FY2005 Operations Budget
   CFO 3 – Status of FEMA Phase I Funds
   CFO 4 - Status of Transition of the CFO Function

X - General Manager’s Report

   GM 1 - Status of the Kings Kamp Letter
   GM 2 - Status of the Site Mitigation
   GM 3 - Status of the System Development Charge
   GM 4 - Plan for Community Meeting

KLWTD July 21, 2004 Agenda – Page 1 of 2
XI - Engineer's Report

  PE 1 - Report on the Design Review
  PE 2 - Status of Sexton Cove RFP
  PE 3 - Report from Haskell Project Manager
      a. Discussion of the Change Proposal for KLP

XII - Public Comment

XIII - Commissioner's Item

  CI 1 - Report on the Florida Keys Water Quality Improvement Program Meeting – Commissioner Brooks

  CI 2 - Update on past agenda items:
      A. FEMA FONSI Status
      B. Water Quality Testing
      C. Resolution of $100K Loan repayment issue
      D. Site mitigation
      E. KLP vacant lot resolution
      F. Project request for FEMA deadline extension
      G. CDBG Grants and/or funds for private connections
      H. Procedures
      I. Web Site Development
      J. Elections at Large versus Seats

XIV – Meeting Adjournment
Item IV
Key Largo Wastewater Treatment District
Board of Commissioner’s Meeting Minutes
5:00 PM Wednesday, July 7, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present
Gary Bauman, Chair
Cris Beaty
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Members Present
Charles Fishburn, General Manager
David Miles, CFO (via telephone)
Thomas Dillon, Board Attorney
Ed Castle, Board Engineer
Faith Doyle, Board Clerk

Guests Present
Mayor Murray Nelson, Monroe County BOCC
Will English, Project Manager, The Haskell Company
Lissette Lopez, Key Largo resident
Martin Waits, Key Largo resident
Steve Gibbs, reporter for the Free Press
Howard Gelbman, Key Largo resident
Burke Cannon, Key Largo resident
Laura Norman, Key Largo resident

I - Call to Order

Chairman Bauman called the meeting to order at 5:01 p.m.

II - Pledge of Allegiance

The pledge was recited.

III - Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Tobin requested the following items to be added as discussion items: the letter from Dr. Straw of FEMA, the letter on the hammock rule, the correspondence received on the main registry for the web site and the letter from Gino Angella of Calusa Camp Resort.
IV - Approval of the Draft June 16, 2004 Meeting Minutes

Commissioner Wilkinson moved to approve the June 16, 2004 Meeting Minutes. Commissioner Beatty seconded the motion. Mr. Dillon stated that concerning his previous comments on the meeting recordings being the best evidence of the action taken at meetings, it is the official minutes that are the records for the organization. Commissioner Tobin moved that the Board Clerk should sign the minutes after approval. All were in favor of the motion and it passed unanimously.

V - Public Comment

Mayor Nelson distributed copies of the latest DCA rule and commented that the revisions to the 2820 rule will result in the KKWTD plant site be exempt because it will be ‘grand-fathered’ under the express terms of the rule.

VI - Legal Counsel’s Report

LC 1 - Haskell Notice of Delay

Mr. Dillon suggested granting the 162-day extension. If the Board agrees the general manager will work with Haskell to resolve the issue by drafting and presenting Change Order No. 2. Categories of damages were discussed.

LC 2 – Prompt Pay Act Am. No. 1 to the Haskell Contract

Mr. Dillon stated that this amendment had been proposed because the clause was inadvertently omitted from the original contract. Haskell has not responded to repeated requests to resolve the issue. Mr. English stated that Mr. Kinsley would provide a response by next week.

LC 3 – Status of Lease for Bank of America

Mr. Dillon informed the Board that the Bank of America does not have ADA compliant restrooms and would not negotiate on any of the terms. It was the consensus of the Board to not pursue leasing from Bank of America.

LC 4 – Letter to the Supervisor of Elections, Monroe County

The letter that was drafted and forwarded by Mr. Dillon at the request of the Office of Election was presented and reviewed. Mr. Sawyer was pleased with the approach and the letter resolves the issue. Under the terms of the Key Largo Wastewater Treatment District Act, Board elections are “at large” elections and legislation would be necessary in order to change that status.

LC 5 – Direct Purchase Procedures

The procedure outline was presented. The suggested resolution for board action was reviewed. Mr. Dillon stated that Paragraph 3 was required in order to utilize the provision of the Special District law that allows a district to waive competitive procurement in certain cases. In this case, Haskell is using its own processes for competitive procurement, and the public interest in competition is protected. Mr. Dillon recommended adoption of the resolution.
Mr. Dillon reviewed the letter that had been received from FEMA's Dr. Straw. Mr. Dillon stated that most issues were addressed sufficiently. However, it seems the letter states that FEMA wants a great deal more site restoration anywhere from the original 2.6 acres to upwards of 40 plus acres. However, Mr. Fishburn corrected this statement in the General Manager’s report.

Mr. Dillon stated that the FEMA/DCA agreements were available for execution and should be acted on as soon as possible.

Commissioner Tobin requested further discussion on the letter from FEMA. Discussion ensued on the future deed holder. Commissioner Tobin asked if there would be modifications to the agreement on this point. Mr. Dillon stated that although it was discussed the letter does not modify the agreement concerning the issue.

Mayor Nelson distributed additional information on Monroe County Rule 20, which indicated that the KLWTD would be grandfathered. Mr. Dillon stated that he would review the information and would provide his input to Mayor’s office if required. Mayor Nelson explained that Rule 20 is the Monroe County rule that limits development in the County. He stated that the BOCC and State are changing some rules making them more stringent. The District projects can continue as planned. Mayor Nelson suggested the changes that would exempt the District so that the rule would not keep the District from using the land for the plant. Discussion ensued. Mayor Nelson stated that additional revisions were made to cover all future treatment facility expansion up to 4.2 acres.

VII - Action Items

AI 1 -- Approval of Resolution 2004-01 of the KLWTD Approving Direct Equipment Purchases

Commissioner Tobin moved Resolution 2004-01. Commissioner Beaty seconded the motion for discussion. Commissioner Wilkinson stated again that he was opposed to the concept of direct purchases. Commissioner Brooks questioned the inclusion of the list of what is to be purchased directly. Mr. Dillon stated that no list had been specified because of the Board’s wish to have the most benefit by direct purchases. It was Mr. Dillon’s understanding that at the last meeting the general manager was directed to manage the issue. Discussion ensued on the list. Mr. Fishburn stated that he had been provided a list from Haskell. A roll call vote was requested.

<table>
<thead>
<tr>
<th>Commissioner Beaty</th>
<th>Yes</th>
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<td>Commissioner Wilkinson</td>
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<td>Chairman Bauman</td>
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The motion carried.

AI 2 – Approval of Work Authorization WEC 04-01 with Weiler Engineering Corporation for Development of an RFP for the Next KLWTD Project
Mr. Castle presented the Work Authorization and answered the Board’s questions concerning the scope and deliverables. Commissioner Brooks moved to approve Work Authorization WEC 04-01. Commissioner Beaty seconded the motion. Commissioner Brooks requested a copy of the approved document so that he could hand carry it to the Project Development Team meeting to demonstrate that KLWTD has a project being prepared that would be eligible for federal funds. Discussion ensued the number of residential EDU’s that would result from the project, the estimated cost for the project. Mayor Nelson stated that it is prudent to have this project ready to bid, especially because it has the ability to expand and add more customers. Mr. Castle noted that using the FKAA’s abandoned lines could reduce the cost of a force main. Discussion ensued on the County paying the cost of work authorization WEC 04-02 and the need for clarification in the body of the work authorization outlining the funding sources. Mayor Nelson stated that the Board would need to be willing to sign a bond document stating that the $2,700 connection fees would be used for future expansion. Mayor Nelson suggested using the FKAA resolution and process as an example. A roll call vote was requested:

Commissioner Beaty   Yes
Commissioner Brooks  Yes
Commissioner Tobin   Yes
Commissioner Wilkinson Yes
Chairman Bauman       Yes

The motion was unanimously approved.

Discussion continued on the issue of bonding. Mr. Miles was directed to discuss the future budget implications of the proposed project with Mr. Castle.

AI 3 – Approval of Amendment No. 1 to the Weiler Engineering Corporation Contract for Consulting/Professional Services

Commissioner Beaty moved to approve Am. No. 1 to the Weiler Engineering Corporation Contract. Commissioner Tobin seconded the motion. With no further discussion all voted in favor of the motion.

VIII – Chief Financial Officers Report

CFO 1 -- Approval of the Pending Payments List for July 7, 2004 including status of the MSTU Funds

Mr. Miles presented the item. He informed the Board that a $55,000 check had been received from the County.

Mr. Miles stated a correction to the memo presented. Draw 3 should be $55,923.03 and the net available to draw down should be $350,043.58.

Discussion ensued concerning the $129,000 advance on the KLP project from FKAA that had not been received. Mr. Miles stated that of the approximately $495,000 in FEMA Phase I funds KLWTD had asked for $450,000 to be forwarded, FKAA declines further advances at the direction of Miles Anderson to KLWTD at this time. Mr. Miles contacted Mr. Anderson concerning the issue. He was informed that the FEMA Phase II contract needs to be approved and forwarded to FEMA prior to setting up a reimbursement schedule. Discussion ensued on
the FKAA actions and Mr. Anderson's decision to hold reimbursement. Mr. Miles stated that he would be meeting with Mr. Anderson concerning the issue next week in Orlando. Chairman Bauman requested that he be notified on the outcome of the meeting as soon as possible.

Commissioner Wilkinson moved to approve the payments lists in its entirety. Commissioner Beatty seconded the motion. Commissioner Beatty noted that he was not in attendance at one of the June meetings so his payroll should be reduced. Mr. Miles stated that he would correct the error during the next payroll period. With no further discussion the motion was unanimously approved.

CFO 2 – Status of the Annual Budget Process

Mr. Miles stated that the FY2005 operations budget would be presented in draft form at the July 21 meeting. The FY 2005 capital program would be presented after the details are reviewed with Mr. Castle.
Commissioner Beatty questioned how long the current MSTU in force. Monroe County Ordinance 018-2003 stated that it would apply through 2007. The amount of the revenues received during FY2004 was approximately $700,000.

Chairman Bauman recessed the meeting at 6:50 p.m.
Chairman Bauman reconvened the meeting at 7:05 p.m.

IX - General Manager's Report

GM 1 - Status of the Clerk Position

Mr. Fishburn stated that he had interviewed all applicants. Ms. Jeanette Bates has withdrawn her application. Ms. Lisette Lopez and Ms. Laura Norman were present at the meeting. Ms. Norman would be available immediately. Ms. Carol Simpkins was determined to be the most qualified but negotiations would be needed to come to terms with the salary. Mr. Fishburn stated concern that Ms. Simpkins would not be amicable to accepting the position at the current rate stated in the Board’s advertisement.

Discussion ensued. Commissioner Brooks entertained a motion to hire Ms. Simpkins at an all-inclusive salary of $57,000 annually as an exempt employee. Ms. Simpkins experience with grant applications and disbursement of funds. Discussion ensued on the salary, qualifications, title and if the manager’s recommendation should prevail or if the Board should decide on the clerk.

Commissioner Brooks moved to approve the General Manager having the authority to hire a clerk for an all-inclusive annual salary of $57,000.00 as an exempt full-time employee. Chairman Tobin seconded the motion and requested the title be amended to be “clerk/assistant manager". Commissioner Brooks amended his motion. A roll call vote was requested.

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<td>Yes</td>
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<tr>
<td>Chairman Tobin</td>
<td>Yes</td>
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</table>
The motion was unanimously approved.

Mr. Fishburn stated that he would begin negotiations with Ms. Simpkins and present an employment agreement to the Board for approval.

GM 2 - Status of the CFO Position

Mr. Fishburn stated that he recommends Mr. Martin D. Waits be hired to fill the CFO Position. Commissioner Beatty stated that after reviewing Mr. Waits qualifications and resume he agrees that he posses the skills to perform the duties and functions of the position.

Mr. Waits stated the first issue he would address is the software for the accounting system and the transition plan for the CFO Functions from GSG to the District. Mr. Waits stated that he would provide a transition plan for the Board’s consideration at the next meeting.

Mr. Fishburn requested that he start immediately on an hourly basis and that an employment agreement be negotiated immediately and presented to the Board at the next meeting for approval.

GM 3 - Report on the Calusa Camp Resort Meeting

Mr. Fishburn stated that he had met with the camp resort manager to discuss options. The cost is a major issue. The letter from Gino Angella letter was presented and discussed.

Mr. Castle reviewed his summary of the options that had been provided with the agenda. Commissioner Tobin requested discussion on the options outlined in the memo. Discussion ensued on the five options presented. Commissioner Wilkinson requested that Mr. Dillon review the condominium law to verify access by third parties. Mr. Dillon stated that in the future many condo associations would be involved and policy decisions should be made soon so that policy would be applied consistently to all establishments.

GM 4 - Status of the Site Mitigation

It was suggested this agenda item be combined with GM 6. Mr. Fishburn stated that since the last meeting a teleconference that included FEMA (Dr. Straw), the Governor’s office and Mayor Nelson was conducted. Discussions included the need for more land (4.2 acres) for future expansion and site mitigation. Mr. Fishburn explained that the mitigation outlined in Dr. Straw's letter actually required restoration of about 3.5 acres, not the 40-plus acres obtained by adding up the gross numbers in the letter.

Chairman Bauman stated that he was ready to sign the DCA agreement. Commissioner Brooks believes the letter received does not agree with what he heard in the meeting. He is concerned with the mitigation issue of replacement of two for one. He is also concerned with saying we may do Lake Surprise but not have the plant capacity to support it.

Commissioner Wilkinson moved to approve the DCA FEMA Phase II Agreement. Commissioner Tobin seconded the motion. All were in favor and the motion was unanimously approved.

GM 5 - Status of the System Development Charge / Rate Study
Mr. Fishburn reviewed the information provided. Mr. Fishburn recommended that PRMG conduct the rate study for the $15,000 that was provided in the FY2004 budget. Commissioners Tobin and Brooks were opposed to having a rate study done. Commissioner Tobin requested copies of all the rate studies Mr. Fishburn has referred to and a workshop for feedback prior to conducting a rate study.

Discussion on rate consulting firms ensued.

Chairman Bauman suggested having PRMG at the July 21, 2004 meeting to make a presentation to the Board.

GM 6 - Status of the FEMA Project 1249-25 Funding Agreement

Please see above.

X - Engineer's Report

PE 1 - Report on the Design Review

Mr. Castle reviewed the information presented.

PE 2 - Engineering Status Report

Mr. Castle reviewed the report.

PE 3 – Status of Change Order to add a second floor to the treatment plant for use as office space

Mr. Castle stated that Brown and Caldwell quoted $62,000 for the design of a second floor. It was the consensus of the Board to not pursue the option any further.

PE 4 – Discussion Items from the Haskell Company (presented by Will English)

Mr. English reported that the County Planning Commission signed off on the minor conditional use. Geotechnical work could start after they can have access to the property. The permit for the collection system should be in hand by the end of the month. The County right-of-way and FDOT permits are in hand. The WWTP permit is being commented on and the County is reviewing the building permit.

XI - Public Comment

Mr. Gelbman comments that the 18 acres that is to go back to the County should be considered for a passive municipal park.

XII - Commissioner's Items

CI 1 - Status of the CFO's Position -- Chairman Bauman

The issue was discussed and resolved earlier in the meeting.
No action was taken on the item.

CI 3 - Update on past agenda items:
   A. FEMA FONSI Status
   B. Water Quality Testing
   C. Resolution of $100K Loan repayment issue
   D. Site mitigation
   E. KLP vacant lot resolution
   F. Project request for FEMA deadline extension
   G. CDBG Grants and/or funds for private connections
   H. Procedures
   I. Web Site Development

No action was taken on the item.

XIII - Meeting Adjournment

Chairman Bauman adjourned the meeting at 9:24 p.m.
KLWTD Board Meeting
July 21, 2004

Item VI

PRMG Presentation
INTRODUCTION TO THE FIRM

Public Resources Management Group, Inc. (PRMG) is an established financial and management consulting firm that specializes in utility rate, financial and strategic planning and management consulting services to the public utility sector. PRMG is located at 341 North Maitland Avenue, Suite 300, Maitland, Florida 32751. The firm’s personnel have extensive experience in finance, economics, accounting, utility cost of service analyses, resource and utility planning, and other related areas, which we believe brings a unique combination of skills and experience to serve our clients with the utmost level of quality.

Our principals have been involved in a wide variety of consulting projects for numerous public clients, which includes the development of utility rates, preparation of financial plans, assistance in securing external funds for capital expansion programs, development of uniform extension policies and developer agreements, presentation of expert testimony on utility financial matters, contract negotiations, and the acquisition and establishment of utilities.

The services PRMG provides to public water, wastewater, reclaimed water, stormwater, solid waste, electric, and natural gas utilities, spans a broad spectrum of utility rate, financial, economic and management services. PRMG services include:

- Rate and Cost of Service Studies
- Bulk Service Rate Studies and Agreements
- Capital Facility Charges and Municipal Impact Fees
- Bond Feasibility Studies
- Valuation and Acquisition Studies, including transitional activities due to the utility transfer
- Contract Negotiations, Developer/Effluent Extension Agreements
- Litigation Services and Expert Testimony
- Strategic Business Planning Services
- Capital Financing and Feasibility Studies
- Customer and Sales Forecasting
- Operational and Management Studies
PRMG in the Florida Keys

- **Florida Keys Aqueduct Authority (FKAA)**
  Services Include:
  - Water Rate Study
  - Bond Financings
  - FDEP SRF Capital Finance Plan (Marathon Central District)
  - Wastewater Financial Plans and Rate Design
    - Little Venice District
    - Conch Key/Duck Key District
    - Bay Point District
  - Water and Wastewater Rule Making Assistance
  - Utility Acquisition Services

- **Village of Islamorada**
  Services Include:
  - Drafting of Utility Rate Policies and Procedures
    - Wastewater Financial Forecast
    - Assistance in Bid Review and Evaluating Alternative Scenarios
    - Contracted to Design Initial Monthly Rate for Service
Memo

To: Key Largo Wastewater Treatment District
From: Thomas M. Dillon
CC: None
Date: 7/20/04
Re: Calusa Campground Condominium Documents

Note: This memorandum constitutes attorney work product and attorney communications.

At the request of Mr. Fishburn, I have reviewed the condominium documents provided to me for Calusa Campground. My main interest is in the ability of the condominium association to grant easements for sewers. Following are my comments:

The existing sewage treatment plant area and access roads are part of the common elements. Declarations ¶ 6.

The common elements are owned by the unit owners as tenants in common, with each lot owner owning 1/367th of the common elements. Declarations ¶ 7.

A provision of the Declarations provides that the common elements shall remain undivided, and no right exists to partition or divide any of them, except when authorized by all unit owners and the owners of all mortgages or other liens affecting all units, or when directed by a court. Declarations ¶ 10.a.

The utility easements are stated to be shown on a plat of Calusa Camp Resort, attached to the Declarations as Exhibit B. However, the print on my copy is too small to read, even with magnification.

The condominium association (Calusa Campground Condominium Association, Inc.) bylaws provide that the association has

a limited power to convey a portion of the common elements to a condemning authority for the purposes of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

Bylaws, ¶ 14.1.

Based on the foregoing, I believe that the Association has the authority to grant any desired easements to the District for sewer purposes. I make no recommendation as to whether the District should request or accept such easements.
Item LC 4

Discussion of D.N. Higgins Letter dated 7-14-04
July 14, 2004

Ms. Faith Doyle
KLWTD Board Clerk
Key Largo Wastewater Treatment District
P.O. Box 491
Key Largo, FL 33037
Phone: 305-451-5105
Fax: 407-629-6963

RE: Contract by and between Douglas N. Higgins, Inc. and Key Largo Wastewater Treatment District

Dear Ms. Doyle:

We are writing regarding the above referenced contract executed on June 25, 2003. The Key Largo Wastewater Treatment District has failed to issue a Notice to Proceed for more than one year. Every year construction costs go up and in the past year construction costs have gone up extraordinarily. The extreme delay of the Notice to Proceed is due to no fault of Douglas N. Higgins, Inc. and therefore we will need compensation for our increased costs.

Once the Notice to Proceed is ready to be issued please notify us prior to issuance. We will document all of our increased costs and submit them to the Key Largo Wastewater Treatment District for review and approval. If the Key Largo Wastewater Treatment District is not willing to compensate Douglas N. Higgins, Inc. for documented increased costs please consider this letter as notification that we are terminating our contract.

Please feel free to contact me at 734-996-9500 with any questions or concerns.

Sincerely

DOUGLAS N. HIGGINS, INC.

[Signature]

Daniel N. Higgins
Vice President

cc: Walter Messer, D.N.Higgins, Inc. Project Manager
Faith Doyle

From: Thomas Dillon [thomasdillon@terranova.net]
Sent: Wednesday, July 14, 2004 12:16 PM
To: Chuck Fishburn
Cc: Jerry Wilkinson; Gary Bauman (E-mail); Faith Doyle; Cris Beaty (E-mail); Charles Brooks (E-mail); Andrew Tobin; Chuck Fishburn; EdRCastle@aol.com; Jeff Weiler

Subject: Higgins notice

I have just received a fax copy of a letter from Daniel Higgins, Vice President of Douglas N. Higgins, Inc. ("Higgins"), in which Mr. Higgins complains of the failure of the District to issue a notice to proceed.

Mr. Higgins advises that Higgins "will document all of our increased costs and submit them to the [District] for review and approval. If the [District] is not willing to compensate Douglas N. Higgins, Inc. for documented increased costs please consider this letter as notification that we are terminating our contract."

This letter raises a number of legal and factual questions, which are discussed below.

1. Does the Higgins Contract remain in effect?

As I understand the history, there was discussion prior to my becoming the District Counsel of the Higgins contract being possibly terminated and the work being performed by Higgins under a subcontract to Haskell.

I recall, but the minutes do not reflect, that at a District Board meeting in January, Walt Messer of Higgins requested that the District return Higgins' performance and payment bonds. Mr. Bauman said that if Higgins wrote requesting the bonds, they would be returned. To the best of my knowledge and understanding, the letter was never written and the bonds were never returned or cancelled.

At meeting with the B&C and Haskell on 7/8/04, Walt Messer stated that he believed the Higgins contract was dead and that the bond had been cancelled. Obviously, Mr. Higgins thinks otherwise.

The remainder of this email will assume that the Higgins contract is still in effect. This assumption is based on the fact that there has never been an express termination of the contract, and the Higgins position as expressed in its letter of this date, which assumes the continuing effectiveness of the contract.

2. Does the Higgins contract impose limits on the date upon which the District may issue a notice to proceed?

Article II covers preliminary matters. Paragraph 2.3 provides that "A Notice to Proceed may be given at any time within thirty (30) days after written confirmation of receipt by KLWTD of the Florida Department of Environmental Protection grant."

An argument can be made that the District has no power to issue a notice to proceed after the expiration of 30 days receipt of the FDEP grant. However, such a limitation on the power of the District would normally be expressed in more definite terms, and the contract does not provide that Higgins is entitled to any rights or remedies based on a failure to issue a timely notice to proceed.

Note that Article V, Paragraph 5.19, lists the reasons for which the contractor may terminate the contract. Although the contract lists a number of reasons to terminate, failure to issue a timely notice to proceed is not among them.

Therefore, I believe that the better argument is that the District's power to issue a notice to proceed is not limited by Paragraph 2.3, and that failure to issue a timely notice to proceed is a mere delay by the District.

3. What are the remedies available to Higgins for delay?

To the best of my knowledge and belief, no notice to proceed has ever been issued to Higgins. I do not know the
date on which the FDEP grant was received, if at all.

Article VII, Paragraph 7.7, addresses delays and extensions of time.

The first paragraph provides that if the contractor is delayed by any act or neglect of the District, the contractor must give notice of the delay.

The second paragraph provides that "It is expressly agreed that the Contractor's right to seek an extension of time as provided in this Article is the Contractor's sole and exclusive remedy in the event of a delay and that in no event shall the Contractor be entitled to recover damages for any delay, regardless of the cause or causes for such delay."

I believe that an extension of time is the sole remedy available to Higgins as a result of the District's delay.

3. Recommendations.

As noted above, I do not have sufficient information to know whether the District has failed to issue a timely notice to proceed. In order to address that issue, I would need to know whether the FDEP grant has been received, and the date of receipt. I would also like to know what form the parties anticipated "receipt" of the grant would take, as I understand it, the grant funds will not be received by the District until the District has expended construction funds. I assume "receipt" of the grant means something other than receipt of the grant funds. In order to evaluate the remedies available to Higgins, I would like to know the magnitude of the delay and the date on which the FDEP grant was "received."

There are good legal arguments for the proposition that Higgins is not entitled to terminate the contract because of the District's failure to issue a notice to proceed. On the other hand, since the contract was signed, more than a year has elapsed without a notice to proceed. It is not certain that a court or a hearing officer would allow the entire burden of the delay to fall on Higgins. Therefore, I recommend that an effort be made to reach a compromise with Higgins. A compromise might take any of the following paths:

a. Negotiate a mutual termination of the contract with no damages to be paid by either side. This would be preferable to allowing Higgins to cancel unilaterally, since a mutual release would result.

a.1. After termination, negotiate a change order with Haskell to do the work.

a.2. After termination, obtain bids from competent contractors to do the work.

b. Agree to an equitable adjustment whereby the unit prices in the contract are adjusted to address additional costs incurred by Higgins as a result of the delay. This would require an analysis of the components of Higgins's unit prices at the time of contracting, and comparing them with actual costs incurred. Some markup would also be required. This approach would be the fastest and possibly the most cost effective approach.

c. Other approaches may be worth considering.

Tom

7/14/04
KLWTD Board Meeting
July 21, 2004

Item AC 1

Approval of the Clerk Employment Agreement
CLERK EMPLOYMENT AGREEMENT

THIS CLERK EMPLOYMENT AGREEMENT ("Agreement") is entered into as of July ___, 2004 between the Key Largo Wastewater Treatment District, an independent special district created by Chapter 2002-337, Laws of Florida (the "District"), and Carol Simpkins ("Clerk").

1. Employment.
   a. The District hereby employs Clerk, and Clerk hereby accepts employment with the District, on the terms set forth in this Agreement. This Agreement is an "at will" agreement. Either party may terminate this Agreement without cause upon 90 days' written notice to the other party. In addition, the District may terminate this Agreement for disability or cause pursuant to Section 8 hereof. Unless sooner terminated, this Agreement shall terminate on July 31, 2006.
   b. Clerk shall serve as the District's Clerk and administrative officer. Clerk shall provide clerk and administrative services and shall perform such duties relating thereto as may be determined and assigned to Clerk from time to time by the District's Board of Directors. Clerk shall report to the District General Manager. Exhibit A to this Agreement sets out the minimum duties of the Clerk.
   c. Clerk shall keep all records that may be required to support any charge by the District against any grant or other funding for work performed by Clerk.
   d. Clerk is a public official as that term is used in the Florida Statutes, and is subject to all ethical and other legal constraints applicable to public officials.
   e. During the term of this Agreement, Clerk shall devote her best efforts, knowledge, skill, and attention to the performance of his duties as aforesaid, except during such periods as Clerk shall be ill, disabled, or on vacation as provided by this Agreement. Clerk shall not accept any other employment for compensation without the prior written consent of the District's General Manager, which consent may be withheld if the District's General Manager reasonably believes that such employment would negatively affect the quality of Clerk's services to the District.

2. Place of Employment. Clerk shall be afforded an office and support services.

3. Compensation.
a. The compensation rate for the CLERK is $53,000 per year.
b. Clerk’s wages shall be payable once each month on the last day, commencing on August 31, 2004.
c. Clerk shall pay the employee’s share of any payroll taxes required under applicable law, by payroll deduction, and District shall bear and be responsible for the employer’s share of any taxes on wages paid as required under applicable law.

4. **Vacation.** Clerk shall be entitled to twelve days of paid vacation during each calendar year. Clerk shall schedule such vacation in consultation with the District General Manager to minimize the inconvenience and other impacts to the District.

5. **Holidays.** Clerk is entitled to the following holidays: New Year’s Day, Birthday of Martin Luther King, Jr. (third Monday in January), Memorial Day, Independence Day, Labor Day, Veterans’ Day (November 11), Thanksgiving Day, Friday after Thanksgiving, Christmas Day. If any holiday falls on a Saturday, the holiday shall be observed on the preceding Friday; if any holiday falls on a Sunday, the holiday shall be observed on the next Monday.

6. **Benefits.** The Clerk understands and agrees that the District has not adopted any employee benefit plans, and that the Clerk shall be responsible for obtaining and providing her own health insurance and other benefits as she deems appropriate.

7. **Travel Expenses.** The District shall pay for or reimburse Clerk in accordance with the District’s standard policies for travel off the island of Key Largo for the purpose of carrying on District business. The District’s standard policies for reimbursement of travel expenses are those set forth in Florida Statutes Section 112.061.
8. **Termination for Disability or Cause.** This Agreement may be terminated by the District, acting through its General Manager, only upon any of the following events:

a. The expiration of 30 days following written notice given by the District General Manager to Clerk of the District’s election to terminate this Agreement following Clerk’s Disability. "Disability" means the inability of Clerk to perform substantially all of the duties required of Clerk by this Agreement by reason of physical or mental incapacity for a period of one month, or a period of more than 30 days in the aggregate in any 18 month period.

b. A determination by the District General Manager that Cause exists to terminate this Agreement, and written notice of termination for Cause is given by the District General Manager to Clerk. "Cause" means any of the following events or conditions:
   
i. A material breach by Clerk of any material provision of this Agreement.
   
ii. Any act by Clerk in violation of the obligations imposed upon public officials under applicable law.
   
iii. Fraud or other dishonest act by Clerk involving the District.
   
iv. Clerk’s conviction of a felony.

Provided that in the case of the foregoing clauses (i) and (ii), "Cause" shall exist only if Clerk fails to cure such breach, within 30 days of receipt of written notice thereof, to the satisfaction of the District General Manager.

c. The death of Clerk.

9. **Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given (a) when personally delivered, (b) on the business day following deposit of such notice with a reputable overnight courier service, or (c) sent by certified mail, return receipt requested, postage prepaid, as follows:

   If to the District:
   
   General Manager
   
   Key Largo Wastewater Treatment District

---

Clerk Employment Agreement

Draft 040708
Either party may change such party's address for the purpose of this Section by written notice similarly given.

10. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable, such provision shall be construed and enforced to the extent possible as if it had been more narrowly drawn so as not to be invalid or unenforceable, and such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement. However, if either party determines in good faith that, as a result of a provision of this agreement being held invalid or unenforceable, this Agreement no longer serves the purposes for which it was written, that party may terminate this agreement upon not less than sixty days' written notice.

11. **Entire Agreement.** This Agreement sets forth the parties' final and entire agreement, and supersedes any and all prior understandings, with respect to the subject matter hereof.

12. **Assignment; Ratification of Agreement.** No right or obligation under this Agreement may be assigned or delegated by either the District or Clerk without the prior written consent of the other party, and any purported assignment or delegation of any such right or obligation without such consent shall be null and void.

13. **No Waiver.** No failure or delay by either party in exercising any right, option, power or privilege hereunder shall operate as a waiver thereof, nor shall any
single or partial exercise thereof preclude any other or further exercise thereof, or the exercise of any other right, option, power or privilege.

14. **Amendment.** This Agreement can only be amended, waived or terminated by a writing signed by both the District and Clerk.

15. **Applicable Law.** This Agreement shall be governed by and construed and interpreted in accordance with the internal law of the State of Florida, without reference to its rules as to conflicts of law.

16. **Headings.** The section headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

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

Key Largo Wastewater Treatment District

Clerk

By

Charles F. Fishburn

Its

General Manager

Carol Simpkins
Exhibit A
Minimum Duties for Clerk

A. Certifies and/or attests to required documents and records and is keeper of the Board Seal.
B. Prepares Board agenda and co-ordinates all related materials with staff for all regular meetings, special meetings and public hearings.
C. Advertises all public meeting notices.
D. Attends Board and committee meetings.
E. Records, transcribes and maintains minutes of all publicly noticed proceedings, and distributes the minutes to the appropriate officials and staff.
F. Reviews and attests all resolutions, contracts and work authorizations for proper execution, recording, archiving and distribution.
G. Maintains and updates all Board records and provides for the storage and retrieval of these permanent records.
H. Serves as a contact for Board information and responds to inquiries related to agenda items, public meeting notices, public records requests or other relevant topics.
I. Serves as a notary.
J. Provides reception service including referring phone inquiries, mail processing, routing and prioritizing.
K. Assists the General Manager, CFO, District Counsel, and District Engineer, as required.
L. Oversees purchasing and maintenance of office equipment and supplies.
M. Oversees the District web site.
KLWTD Board Meeting
July 21, 2004

Item AC 2

Approval of the CFO Employment Agreement
CHIEF FINANCIAL OFFICER EMPLOYMENT AGREEMENT

THIS CHIEF FINANCIAL OFFICER EMPLOYMENT AGREEMENT ("Agreement") is entered into as of July ___, 2004 between the Key Largo Wastewater Treatment District, an independent special district created by Chapter 2002-337, Laws of Florida (the "District"), and Martin D. Waits ("CFO").

1. Employment.
   a. The District hereby employs CFO, and CFO hereby accepts employment with the District, on the terms set forth in this Agreement. This Agreement is an "at will" agreement. Either party may terminate this Agreement without cause upon 14 days' written notice to the other party. In addition, the District may terminate this Agreement for disability or cause pursuant to Section 8 hereof. Unless sooner terminated, this Agreement shall terminate on May 31, 2006.
   b. CFO shall serve as the District's Chief Financial Officer. CFO shall provide financial officer services and shall perform such duties relating thereto as may be determined and assigned to CFO from time to time by the District's Board of Directors. CFO shall report to the District General Manager. Exhibit A to this Agreement sets out the minimum duties of the CFO.
   c. CFO shall keep all records that may be required to support any charge by the District against any grant or other funding for work performed by CFO.
   d. CFO is a public official as that term is used in the Florida Statutes, and is subject to all ethical and other legal constraints applicable to public officials.
   e. During the term of this Agreement, CFO shall devote his best efforts, knowledge, skill, and attention to the performance of his duties as aforesaid, except during such periods as CFO shall be ill, disabled, or on vacation as provided by this Agreement. CFO shall not accept any other employment for compensation without the prior written consent of the District's General Manager, which consent may be withheld if the District's General Manager reasonably believes that such employment would negatively affect the quality of CFO's services to the District.
   f. This is a part-time position.

2. Place of Employment. CFO shall be afforded an office and support services.

3. Compensation.
a. The compensation rate for the CFO is $30.00 per hour.
b. CFO's wages shall be payable once each month on the last day, commencing on July 31, 2004.
c. CFO shall pay the employee's share of any payroll taxes required under applicable law, by payroll deduction, and District shall bear and be responsible for the employer's share of any taxes on wages paid as required under applicable law.

4. **Vacation.** CFO shall be entitled to one hour of paid vacation during each calendar year for each 20 hours of time worked. CFO shall schedule such vacation in consultation with the District General Manager to minimize the inconvenience and other impacts to the District.

5. **Holidays.** CFO shall not be entitled to paid holidays. The following days are holidays on which the District office is closed: New Year's Day, Birthday of Martin Luther King, Jr. (third Monday in January), Memorial Day, Independence Day, Labor Day, Veterans' Day (November 11), Thanksgiving Day, Friday after Thanksgiving, Christmas Day. If any holiday falls on a Saturday, the holiday shall be observed on the preceding Friday; if any holiday falls on a Sunday, the holiday shall be observed on the next Monday.

6. **Benefits.** The CFO understands and agrees that the District has not adopted any employee benefit plans, and that the CFO shall be responsible for obtaining and providing his own health insurance and other benefits as he deems appropriate.

7. **Travel Expenses.** The District shall pay for or reimburse CFO in accordance with the District's standard policies for travel off the island of Key Largo for the purpose of carrying on District business. The District's standard policies for reimbursement of travel expenses are those set forth in Florida Statutes Section 112.061.
8. **Termination for Disability or Cause.** This Agreement may be terminated by the District, acting through its General Manager, only upon any of the following events:
   a. The expiration of 30 days following written notice given by the District General Manager to CFO of the District's election to terminate this Agreement following CFO's Disability. "Disability" means the inability of CFO to perform substantially all of the duties required of CFO by this Agreement by reason of physical or mental incapacity for a period of one month, or a period of more than 30 days in the aggregate in any 18 month period.
   b. A determination by the District General Manager that Cause exists to terminate this Agreement, and written notice of termination for Cause is given by the District General Manager to CFO. "Cause" means any of the following events or conditions:
      i. A material breach by CFO of any material provision of this Agreement.
      ii. Any act by CFO in violation of the obligations imposed upon public officials under applicable law.
      iii. Fraud or other dishonest act by CFO involving the District.
      iv. CFO's conviction of a felony.
   Provided that in the case of the foregoing clauses (i) and (ii), "Cause" shall exist only if CFO fails to cure such breach, within 30 days of receipt of written notice thereof, to the satisfaction of the District General Manager.
   c. The death of CFO.

9. **Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given (a) when personally delivered, (b) on the business day following deposit of such notice with a reputable overnight courier service, or (c) sent by certified mail, return receipt requested, postage prepaid, as follows:

   If to the District:
   
   General Manager
   Key Largo Wastewater Treatment District

Chief Financial Officer Employment Agreement  
Draft 040708
P.O. Box 491
Key Largo, Florida 33037

With a copy to:

Thomas M. Dillon
94220 Overseas Highway, #2B
Tavernier, Florida 33070-3005

If to CFO:

Martin D. Waits
308 Woods Avenue
Tavernier, Florida 33070

Either party may change such party's address for the purpose of this Section by written notice similarly given.

10. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable, such provision shall be construed and enforced to the extent possible as if it had been more narrowly drawn so as not to be invalid or unenforceable, and such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement. However, if either party determines in good faith that, as a result of a provision of this agreement being held invalid or unenforceable, this Agreement no longer serves the purposes for which it was written, that party may terminate this agreement upon not less than sixty days' written notice.

11. **Entire Agreement.** This Agreement sets forth the parties' final and entire agreement, and supersedes any and all prior understandings, with respect to the subject matter hereof.

12. **Assignment; Ratification of Agreement.** No right or obligation under this Agreement may be assigned or delegated by either the District or CFO without the prior written consent of the other party, and any purported assignment or delegation of any such right or obligation without such consent shall be null and void.

13. **No Waiver.** No failure or delay by either party in exercising any right, option, power or privilege hereunder shall operate as a waiver thereof, nor shall any
single or partial exercise thereof preclude any other or further exercise thereof, or the exercise of any other right, option, power or privilege.

14. **Amendment.** This Agreement can only be amended, waived or terminated by a writing signed by both the District and CFO.

15. **Applicable Law.** This Agreement shall be governed by and construed and interpreted in accordance with the internal law of the State of Florida, without reference to its rules as to conflicts of law.

16. **Headings.** The section headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

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

Key Largo Wastewater Treatment District

Chief Financial Officer

By

Charles F. Fishburn

General Manager

Martin D. Waits
Exhibit A
Minimum Duties for Chief Financial Officer

A. Establish and maintain financial control, financial reporting, and budgetary controls relating to District revenue and expenditures.

B. Prepare District annual budget and monitor all grant related financial management functions.

C. Provide advice and assistance in risk management functions.

D. Ensure all internal controls are in place to comply with State Statutes, Rules of the Auditor General of the State of Florida, District Policies and the Codification of Government Accounting and Financial Reporting Standards published by the Governmental Accounting Standards Board.

E. Provide cash and investment management, accounting, billing, receivable maintenance, accounts payable, disbursing and general and subsidiary ledger maintenance services for the District.

F. Ensure all cash and investment balances are properly safeguarded and all revenue and expenditures are accurately and timely processed to safeguard the assets of the District.

G. Assist District external auditor in reviewing financial records.


I. Ensure maintenance of District fixed asset records and schedule annual inventory of same.

J. Prepare monthly trial balance, revenue and expenditure reports, grant reports, and reconcile cash, investments, receivable, and payable balances.

K. Assist Monroe County in preparing documents to support MSTU tax levy.

L. Prepare agenda items to meet agenda deadlines of 7 days prior to each meeting.

M. Recurring items:
   a. Payments pending list for Board of Commissioner approval.
   c. Monthly statement of net assets.
   d. Quarterly statement of revenue and expense marked to budget.
   e. Sign checks, obtain second signature for checks over the District’s authorized single signature limit and mail payments to vendors.

N. Non-Recurring items:
   a. Special Studies.
b. Bids and requests for proposals.
c. Grant status reports.
d. Dunn and Bradstreet reports.
e. Assist in preparation of grant requests, including preparing financial schedules to support requests.
f. Prepare grant invoices and submit to grantor agencies.
g. Follow-up with grantor agencies to obtain payments and to respond to grantor agency questions.
h. Prepare bank line of credit requests.
i. Prepare all draw requests as needed from County and other financing sources, and obtain Board of Commissioner approval.
j. Follow up with District Counsel, District Engineer and vendors to clear up causes of payment disapproval.

O. Obtain CAFR printing and submit to State of Florida regulatory agencies, bank and any federally mandated repositories (required for bond compliance if District ever issues revenue bonds to public).

P. Prepare and submit statutory annual financial report to State Department of Banking and Finance after obtaining auditors concurrence. Coordinate with External Auditor prior to submission, as required by Statute.

Q. Perform District risk management functions including obtaining insurance, payment of premiums, filing and monitoring any claims and providing required documentation to insurer.

R. Coordinate with FKAA, Monroe County, Monroe County Clerk of Courts, and state and federal agencies and SFWMD to ensure grant compliance is completed properly. This is designed to avoid any claim for improper expenditure and subsequent refund of grant proceeds.

S. Act as custodian of the District’s books and records, which shall be maintained in accordance with Florida Statutes Section 189.9.

T. Preparing an annual consumer confidence report as required by law.

U. Consulting with, and supervision of, contractors as reasonably required and necessary with regard to construction of capital projects.

V. In consultation with the District Engineer and District Counsel, as appropriate, issuing interpretations and clarifications of contract documents.

a. Evaluating requests for substitutions or deviations therefrom.

b. Providing recommendations concerning requests for substitutions or deviations therefrom.
c. Preparing work orders.
d. Monitoring all required project records.
e. Reviewing applications for payment.
f. Conducting comprehensive inspections of construction projects.
g. Developing list of items needing completion or correction.

O. Provide proof of compliance with funding and grant requirements.

P. Request advances and reimbursements consistent with funding and grant requirements.
Item AC 3

Approval of Resolution 2004-02
Dear Commissioners:

Attached is Resolution 2004-02, which provides changes to the authorized signatories for the Key Largo Wastewater Treatment District's bank accounts. This resolution provides for the removal of previous General Manager (Robert E. Sheets) and Chief Financial Officer (David R. Miles) as authorized signatories and adds new General Manager (Charles F. Fishburn) and Chief Financial Officer (Martin D. Waits). Chairman Gary Bauman and Secretary Cris Beaty will remain as authorized signatories.

This resolution is proposed to be effective on August 1, 2004 to allow time for all signature cards and other required TIB Bank documents to be signed by all signatories and to insure payments approved on the July 21, 2004 agenda are paid without delay.
Dear Commissioners:

Attached is Resolution 2004-02, which provides changes to the authorized signatories for the Key Largo Wastewater Treatment District’s bank accounts. This resolution provides for the removal of previous General Manager (Robert E. Sheets) and Chief Financial Officer (David R. Miles) as authorized signatories and adds new General Manager (Charles F. Fishburn) and Chief Financial Officer (Martin D. Waits). Chairman Gary Bauman and Secretary Cris Beaty will remain as authorized signatories.

This resolution is proposed to be effective on August 1, 2004 to allow time for all signature cards and other required TIB Bank documents to be signed by all signatories and to insure payments approved on the July 21, 2004 agenda are paid without delay.
RESOLUTION 2004-02

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, DESIGNATING THE GENERAL MANAGER AND CHIEF FINANCIAL OFFICER AS AUTHORIZED SIGNATORIES OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT’S BANK ACCOUNTS

WHEREAS, the Board of Commissioners of the Key Largo Wastewater Treatment District desire to designate the general manager and the chief financial officer as authorized signatories of the Key Largo Wastewater Treatment District’s bank accounts;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT THAT:

1. The Board hereby designates Charles F. Fishburn, General Manager and Martin D. Waits, Chief Financial Officer as authorized signatories of the Key Largo Wastewater Treatment District’s bank accounts.

2. The authority to sign all checks and other legal instruments on behalf of the Key Largo Wastewater Treatment District, pertaining to the TIB Bank of the Keys, account number 20154139006, and such other accounts as the Board may authorize to open in the future is hereby provided. This authority supersedes and replaces all prior authorizations by this Board.

3. The Board Chairman, Gary Bauman and Board Secretary, Cris Beaty remain as authorized signatories on the Key Largo Wastewater Treatment District account.

4. The previous General Manager, Robert E. Sheets and Chief Financial Officer, David R. Miles will no longer be authorized to sign instruments on the Key Largo Wastewater Treatment District’s bank accounts.

5. This change shall be effective August 1, 2004.
PASSED AND ADOPTED this 21st day of July, 2004.

KEY LARGO WASTEWATER TREATMENT DISTRICT GOVERNING BOARD

Chair, Key Largo Wastewater Treatment District

Secretary, Key Largo Wastewater Treatment District
Item AC 4

Approval of Change Order No. 2 to the Haskell Contract
CHANGE ORDER AGREEMENT  
Key Largo Wastewater Treatment District

<table>
<thead>
<tr>
<th>Contract No.:</th>
<th>Design-Build Wastewater Treatment System</th>
<th>Change Order No.:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Key Largo Trailer Village Area</td>
<td>002</td>
</tr>
<tr>
<td></td>
<td>(The Haskell Company)</td>
<td></td>
</tr>
</tbody>
</table>

The following changes to the Contract are hereby made part of the Contract Documents.

I. ORIGINAL CONTRACT PRICE

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price of all previous Change Orders</td>
<td>$7,970,000.00</td>
</tr>
<tr>
<td>Price of this Change Order</td>
<td>$73,767.00</td>
</tr>
<tr>
<td>The Current Contract Price including this Change Order</td>
<td>$8,043,767.00</td>
</tr>
</tbody>
</table>

II. ORIGINAL CONTRACT COMPLETION DATE

<table>
<thead>
<tr>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Substantial Completion Date</td>
<td>August 1, 2005</td>
</tr>
<tr>
<td>Total of all previous Contract Time Adjustments</td>
<td>0 Days</td>
</tr>
<tr>
<td>Contract Time Adjustment this Change Order</td>
<td>162 Days</td>
</tr>
<tr>
<td>Revised Contract Time</td>
<td>N/A</td>
</tr>
<tr>
<td>Revised Substantial Completion Date</td>
<td>January 11, 2006</td>
</tr>
</tbody>
</table>

III. WORK CHANGED BY THIS CHANGE ORDER

<table>
<thead>
<tr>
<th>Item</th>
<th>Change Proposal</th>
<th>Issue</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>N/A</td>
<td>01-003</td>
<td>Secondary Treatment Selection</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

In various letters, Haskell has requested additional time totaling 162 days on account of delay in selecting a secondary treatment process (Haskell Issue No. 01-003), and has contended that it may be entitled to additional time for other causes. The District does not agree that Haskell has demonstrated entitlement or causation for any amount of additional time or additional compensation.

As a partial settlement of these issues, the District has agreed to grant Haskell 162 days of additional time, and Haskell has agreed that it shall not seek compensation for overhead or indirect expenses in connection with that additional time granted. Haskell retains the right to seek additional compensation for any direct costs of labor or materials in connection with Haskell Issue No. 01-003, and additional time and compensation for other delay incidents, and the District will evaluate such contentions when they are made to determine whether Haskell has demonstrated entitlement, causation, and quantum.

All requirements of the original Contract Documents shall remain in full force and effect except as modified herein. Work or services affected by this Change Order are subject to all provisions of the original Contract Documents not specially changed by this Change Order. KLWTD and THE HASKELL COMPANY agree that the sum agreed to in this Change Order constitutes a full and complete settlement of the issues set forth in this Change Order. THE HASKELL COMPANY accepts the terms of this Change Order as full compensation for all costs of equipment, manpower, materials, overhead, profit and delay damages, and for all its costs, whether direct or indirect, or whether incurred now or in the future, related to the issues set forth in this Change Order.
Accepted by the Haskell Company:

[Signature]

Peter M. Kinsley  
Title: Division Leader  
Date: 7/14/04

Approved by KLWTD:

[Signature]

Title:  
Date:  

[Blank Space]
KLWTD Board Meeting
July 21, 2004

Item AC 5

Approval of Amendment No. 1 to the Haskell Contract
July 14, 2004

Re: Wastewater Management System For
The Key Largo Trailer Village Area
Key Largo, Florida
Issue No. 01-029 – Contract
Amendment No. 1

Mr. Chuck Fishburn
KLWTD General Manager
Post Office Box 491
Key Largo, Florida 33037

Dear Mr. Fishburn:

Per your request, please find two copies of the executed Contract Amendment No. 1. As you are aware, our concern with executing this document was exposing our company to cost prior to project funding being fully secured. In that regard, we respectfully request that the District provide The Haskell Company copies of associated funding documents as they become available to demonstrate the District has received "reasonable assurance" that federal funds will be received.

Should you have any questions or require further information, please do not hesitate to contact me at (904) 357-8225.

Sincerely,

Peter M. Kinsley
Division Leader

Enclosures

cc: Thomas Dillon
Contract/ File
Issue No. 01-029
AMENDMENT NUMBER ONE 
TO 
DESIGN-BUILD AGREEMENT 

BETWEEN 

KEY LARGO WASTEWATER TREATMENT DISTRICT 
AND 
THE HASKELL COMPANY 

WHEREAS, under date of June 25, 2003, the Key Largo Wastewater Treatment District ("KLWTD") and The Haskell Company ("Haskell") entered into a written Design-Build Agreement; and 

WHEREAS, the parties desire to amend the Design-Build Agreement; 

NOW, THEREFORE in consideration of the premises, and in further consideration of the promises below, the parties agree that the Design-Build Agreement shall be, and hereby is, amended as follows: 

1. On Page 1, revise the underlined paragraph to read as follows: 

Notice to CONTRACTOR of a default or termination in connection with this Agreement, shall be sent to the attention of Peter M. Kinsley or such other representative as the CONTRACTOR shall designate in writing. Notice to the KLWTD of a default or termination in connection with this Agreement shall be sent to Charles F. Fishburn or such other person as the KLWTD shall designate in writing, with an additional copy to be sent to Thomas M. Dillon, 94220 Overseas Highway, Unit 2B, Tavernier, Florida 33070-3005 or such other person as the KLWTD shall designate in writing. All other notices to the parties shall be given to the Representatives of the parties, as designated, at their respective addresses. 

2. On Page 1, change the contact information for the KLWTD Representative to: 

Charles F. Fishburn, General Manager 
Key Largo Wastewater Treatment District 
P.O. Box 401 
Key Largo, Florida 33037 

3. On Page 43, add a new Paragraph 7.5, to read as follows: 

7.5 Prompt Pay Act Clause 

Notwithstanding any other provision of this Agreement concerning payment to the CONTRACTOR, for purposes of determining when payment is due, the parties acknowledge and agree that no payment will be made to the CONTRACTOR until such payment is approved by the Board of the KLWTD. Further, the CONTRACTOR acknowledges and agrees that a significant portion of the funds with which the KLWTD will pay the CONTRACTOR are federal funds, and payment may be contingent on receipt of federal funds or federal approval. To the extent that the KLWTD has not received any required federal funds or required federal approval, the time within which the KLWTD is required to pay the CONTRACTOR for services
under this Agreement shall be extended until such federal funds or federal approval has been received. The KLWTD will exercise reasonable diligence to ensure that all requests for federal funds and federal approvals are complete and timely submitted. The KLWTD will not issue a Notice to Proceed to the CONTRACTOR for any work for which the KLWTD intends to pay with federal funds until after the KLWTD has received reasonable assurance that federal funds to cover the cost thereof will be received.

IN WITNESS WHEREOF, the parties have executed this Amendment Number One to the Design-Build Agreement on the dates opposite their names in two counterparts, each of which shall, without proof or accounting for the other counterpart, be deemed an original Agreement.

**CONTRACTOR**
The Haskell Company, Inc.

By: ____________________________________________

Its: ___________________________________________

Name: Peter A. Kenney

Date: 7/14/06

**KLWTD**
Key Largo Wastewater Treatment District

By: ____________________________________________

Its: Chairman

Date: __________________________________________

Attest:

By: ____________________________________________

Name: Cris Beaty
Its: Secretary/Treasurer

Date: __________________________________________

By: ____________________________________________

Name: Faith Doyle
Its: Board Clerk

Page 2 of 2
KLWTD Board Meeting
July 21, 2004

Item CFO 1

Approval of the Pending Payments List for July 21, 2004
TO: Key Largo Wastewater Treatment District Board Members

CC: Charles Fishburn, General Manager
Faith Doyle, Clerk to the Board
Thomas Dillon, Board Attorney

FROM: David R. Miles, Director of Finance

DATE: July 13, 2004

RE: Pending Payments Key Largo Wastewater Treatment District

Dear Commissioners:

This agenda item is designed to provide an update on the financial status of the Key Largo Wastewater Treatment District. As of July 13, 2004 the District had $68,688.60 in its bank account. We have $29,799.66 in invoices in-hand for payment by August 4, 2004. Exhibit A is the list of currently outstanding invoices pending payment. As requested by the Board at the January 14, 2004 meeting, separate accounting of cash balances are shown as follows as of July 13, 2004:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration &amp; Operations:</td>
<td>$204,514.47</td>
</tr>
<tr>
<td>Key Largo Park:</td>
<td>(51,002.08)</td>
</tr>
<tr>
<td>Key Largo Trailer Village:</td>
<td>(84,823.79)</td>
</tr>
<tr>
<td>Total</td>
<td>$ 68,688.60</td>
</tr>
</tbody>
</table>

A request for $129,607.00 for Monroe County matching funds for use in the Key Largo Park project, submitted March 23, 2004 is still pending. A follow-up letter was sent May 27, 2004. We have also followed up numerous times with George Garratt telephonically. This funding is essential to get the KL Park cash flow in the black.

Draw Request number 3 in the amount of $55,423.46 for the FY 2004 MSTU funds was received from Monroe County on July 2, 2004 covering March, April and May disbursements by the District.

Negotiations are pending with Miles Anderson of DCA concerning drawing down of FEMA Phase II funding. Now that the FEMA Phase II agreement has been signed, we should be able to obtain this essential funding advance for the Key Largo Trailer Village project.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkinson
<table>
<thead>
<tr>
<th>Date of Invoice</th>
<th>Invoice #</th>
<th>Description</th>
<th>Payment Category</th>
<th>Invoice Amount</th>
<th>Date Due</th>
<th>Date Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/30/04</td>
<td></td>
<td>Cash Balance Forward for Administration &amp; Operations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/02/04</td>
<td></td>
<td>Interest Earnings for June 2004</td>
<td></td>
<td>24.32</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/02/04</td>
<td></td>
<td>Deposit from Board of Co. Commissioners</td>
<td></td>
<td>55,423.46</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Available</td>
<td></td>
<td></td>
<td></td>
<td>149,066.69</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/04/04</td>
<td>305453-17100010449</td>
<td>Telephone Bill July 4 - August 3</td>
<td></td>
<td>44.40</td>
<td>Upon Receipt</td>
<td></td>
</tr>
<tr>
<td>07/04/04</td>
<td>291924</td>
<td>Advertising for June 2004</td>
<td></td>
<td>239.48</td>
<td>Upon Receipt</td>
<td></td>
</tr>
<tr>
<td>07/08/04</td>
<td>03021-7831</td>
<td>Management Fee for June 2004</td>
<td></td>
<td>6,857.51</td>
<td>Upon Receipt</td>
<td></td>
</tr>
<tr>
<td>07/08/04</td>
<td>03021-7832</td>
<td>Copy, Postage &amp; Accounting Expenses for June 2004</td>
<td></td>
<td>1,290.63</td>
<td>Upon Receipt</td>
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</tr>
<tr>
<td>07/01/04</td>
<td>1023</td>
<td>Legal Professional Services for June 2004</td>
<td></td>
<td>4,573.50</td>
<td>Upon Receipt</td>
<td></td>
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<tr>
<td>Total Invoices for Administration &amp; Operations</td>
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<td></td>
<td></td>
<td>13,005.52</td>
<td></td>
<td></td>
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<tr>
<td>Balance Forward if All Admin &amp; Operations Invoices Paid</td>
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<td></td>
<td></td>
<td>191,508.95</td>
<td></td>
<td></td>
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<tr>
<td>07/08/04</td>
<td>03049-7833</td>
<td>Cash Balance Forward for Key Largo Park</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/08/04</td>
<td></td>
<td>KLVTD - Park Project Billing for June 2004</td>
<td></td>
<td>107.50</td>
<td>Upon Receipt</td>
<td></td>
</tr>
<tr>
<td>Total Invoices for Key Largo Trailer Park</td>
<td></td>
<td></td>
<td></td>
<td>107.50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance Forward if All Key Largo Park Invoices Paid</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/08/04</td>
<td>03051-7834</td>
<td>Cash Balance Forward for Key Largo Trailer Village</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>06/30/04</td>
<td>06/29/72</td>
<td>KLVTD - Trailer Village Project Billing for June 2004</td>
<td></td>
<td>1,386.25</td>
<td>Upon Receipt</td>
<td></td>
</tr>
<tr>
<td>06/30/04</td>
<td></td>
<td>KLVTD Design/Bldg - Appl #9</td>
<td></td>
<td>15,300.39</td>
<td>Upon Receipt</td>
<td></td>
</tr>
<tr>
<td>Total Invoices for Key Largo Trailer Village</td>
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<td></td>
<td></td>
<td>16,686.64</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance Forward if All Key Largo Trailer Village Invoices Paid</td>
<td></td>
<td></td>
<td></td>
<td>(101,510.43)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total All Invoices</td>
<td></td>
<td></td>
<td></td>
<td>29,799.66</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Approved for Payment:

Gary Bauman, KLVTD Chair
Cris Beaty, KLVTD Secretary

Payment Category Key:
1- District Administration
2- Key Largo Park Construction
3- Key Largo Trailer Village Construction
KLWTD Board Meeting
July 21, 2004

Item CFO 2

Presentation of the Draft FY2005 Operations Budget
Dear Commissioners:

Attached is the first proposed draft of the operating budget for the Key Largo Wastewater Treatment District for FY 2005. We have also made preliminary projections for the period FY 2006-2009. These projections in large measure are dependent upon the progress the District makes towards obtaining its goal of providing sewer service to all real property parcels on Key Largo. Because of recently approved changes to the capital program of the District, we propose to have a separate discussion of the District’s capital program at the August 4, 2004 meeting.

The operating budget is significantly different in FY 2005 compared to the two prior years, not in format, but in operational philosophy. This budget provides for the employment of two full time and one part time employee positions, in addition to the Board member salaries. It provides for the phasing out of the contractual managerial support provided to the Board in the last two years. Small, but declining amounts are budgeted for consultation in the early years to support the transition to an in-house staff.

It will be necessary to obtain computer support, particularly for the accounting function and subsequently for the customer billing function. The need for an Internet web site has also been discussed for the district. We have therefore included $10,000 per year for the lease of necessary software and other contractual arrangements for these services.

A series of assumptions have been made concerning the progress in completing the construction of the capital assets of the district. These assumptions have a bearing on the cost of delivering services and the revenue streams that can be expected, particularly in FY 2006 and thereafter. The assumptions are as follows:
• The Monroe County Property Appraiser has provided staff a projection of the Key Largo MSTU assessed values for 2004 of $2,642,564,644. These values represent a 17.29 percent increase over the 2003 values of $2,253,097,004. Assuming the millage rate remains the same at 0.35 mills, this will generate $827,685 in FY 2005 revenue. It is expected that this revenue source will expire at the end of FY 2007 and the Monroe County agreement will not be renewed after the initial term.

• The first of the 850 EDU’s in Key Largo Trailer Village and Key Largo Park will begin to be served by the newly constructed plant in early FY 2006 (October 2005). About two thirds of the ultimate monthly fee revenue for these two projects is projected to be received in FY 2006, with the full amount being received in FY 2007. These numbers were based on a monthly flat fee of $35.00 per EDU.

• It is estimated that five (5) percent of the Key Largo Park and Key Largo Trailer Village connection fees will be received in FY 2005 with the remainder received in FY 2006. A connection fee of $2,700.00 per EDU was used.

• The Lake Surprise Force Main and related projects in neighborhood communities is projected to have construction completed by the end of FY 2007 and to begin providing services in FY 2008. An estimate of 3,000 EDU’s has been assigned for budgetary purposes to this project. This number will be refined based on the recently approved Weiler Engineering work order and future grant approval of funding amounts.

• Estimates of receipt of monthly fee revenue from the Lake Surprise project are based on two-thirds being received in FY 2008 and all customers paying in FY 2009. Likewise, collection of connection fees is based on five percent in FY 2007 with the balance received in FY 2008 and FY 2009.

• The district will begin sending monthly invoices to customers in FY 2006, with a significant increase beginning in FY 2008 for the Lake Surprise project.

• The budget funds a full time General Manager and Board Clerk and a part time CFO in FY 2005. No additional positions are funded in FY 2006 or thereafter, but funding for contractual operation, maintenance, customer service and billing functions are included for FY 2006 and thereafter. These functions can be brought in-house based on Board direction in a future budget year as requirements are better defined.

• We have increased the insurance premium line beginning in FY 2006 and further in FY 2008 to reflect the need to add property and casualty coverage for the newly completed wastewater plant.

• We have included $120,000 for special projects and $15,000 for a contractual rate review in the FY 2005 budget.

This draft-operating budget is a planning tool for the Board and management. Constructive comments and improvements are always welcome.
## Five Year Operating Forecast

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## OPERATING EXPENSES

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## NON-OPERATING EXPENSES

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<td>Capital Expenditures from Operating Account</td>
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## Total Expenses

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<td><strong>Total Operating Surplus</strong></td>
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<td>$ 217,000</td>
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Prepared: July 14, 2004
KLWTD Board Meeting
July 21, 2004

Item CFO 4

Status of Transition of the CFO Function
## OVERVIEW OF CFO TRANSITION PLAN

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<th>KEY ELEMENT</th>
<th>RESPONSIBILITY TRANSFER TARGET</th>
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<td>Checking Account</td>
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<td>Change Signatories</td>
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<td>Transfer Financial Records</td>
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<td>Payables Function</td>
<td>August 31</td>
<td>Overlap 8/1 – 8/15</td>
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<td>All Accounting Functions (Note 1)</td>
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<td>Overlap 7/15 – 8/31</td>
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<td>Budget Function (Note 2)</td>
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<td>Grant Management</td>
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<td>GSG Consulting Continues</td>
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**Note 1**  Anticipate implementing local software by August 15, then completing installation and data entry concurrent with initial execution of responsibilities.

**Note 2**  Fiscal 2004 – 2005 budget preparation will be a joint effort through completion and approval.
KLWTD Board Meeting
July 21, 2004

Item GM1

Status of the Kings Kamp Letter
Gino F. Angella, President, Jupiter Global Inc.
General Partner of Kings Kamp LLLP and Captain Jax LLLP
P.O. Box 1805
Dania Beach, Florida 33004-1805
Phone: 954-921-6094
Fax: 954-923-2851
Email: angella@kingskamp.com

July 4, 2004

Charles F. Fishburn
General Manager
Key Largo Wastewater Board
161 Dubonnet Road
Tavernier, Florida 33070

RE: Captain Jax and Kings Kamp

Dear Mr. Fishburn,

Enclosed please find a set of the sewage collection plans we have submitted to the building department for approval to construct our collection system via Third Generation Plumbing, Contractors. Please note it is a gravity system with a force main from the collection points to the highway area where will be place our treatment plant.

In the near future when the Key Largo Wastewater Board installs its force main along the highway we plan to hook into the new system. Please consider the addition of our volume to the system yet to be designed.

If you have any advise, questions or comments to help us in this endeavor, they will be gladly appreciated. Please call me, email or fax anytime.

Thank you

Gino F. Angella, President
July 4, 2004

Charles F. Fishburn
General Manager
Key Largo Wastewater Board
161 Dubonnet Road
Tavernier, Florida 3370

RE: RV Parks, Campgrounds and Trailer Parks

Dear Mr. Fishburn,

Due to improper levying of special assessments by local governments, RV Parks, Campgrounds and Trailer Park owners in several Counties across Florida have had to engage in costly legal battles. These legal battles were a result of local governments not treating these entities according to the law.

As an owner of such a property here in Monroe County, I am concerned about the special assessment or impact fees being considered by the Key Largo Wastewater Board and similar quasi governmental agencies throughout Monroe County. I want to insure that myself and other owners of similar property are being assessed as a commercial entity as declared in Florida Statutes 125.0168 which states that special assessments levied on property like ours “shall not be based on the assertion that the park is comprised of residential units. Instead, parks that are regulated under chapter 513 shall be assessed as a commercial entity in the same manner as a hotel, motel or other similar facility”.

Florida Law clearly states that property as described here, is to be treated as commercial property, yet local governments in Hendry, Lee, Martin, Polk and Glades Counties have chosen to assess parks as residential units. In doing so, these local governments spent taxpayer dollars fighting court cases that they eventually lost.

As a Park owner and a member of the Florida Association of RV Parks and Campgrounds, our position as an industry is that the intentions of the law must be thoroughly understood and implemented accordingly. Taxing or assessing Trailer parks, Campgrounds, RV Parks per residential unit for fire, emergency medical services, sewage impact fees etc. is wrong and in our opinion not in accordance with the law. These are commercial entities and should be taxed as such. I have attached seven additional pages of information and a copy of the actual Florida State Statute.

Thank you for your continued support and keen attention to this matter

Sincerely yours,

[Signature]

Gino F. Angella

CC: All County Commissioners
     All Key Largo Wastewater Board Members
Who Needs To Know Our Issue?

It is important that members of ARVC communicate with elected officials at the local levels to make sure they are aware of our position regarding F.S. 125.0168.

You can help in these efforts by writing letters to your county commissioners and city council members. Some key items to keep in mind when communicating to elected officials:

- Florida Statute 125.0168 created uniform standards for RV parks, which require counties to tax campgrounds using the same criteria they use to tax hotels and motels. This law treats RV parks and campgrounds the same as other commercial entities, such as, hotels, motels, Wal-Mart, grocery stores, etc.

- Campgrounds and RV parks are regulated by Florida Statute 513 and are classified as commercial properties and should be billed as commercial entities.

- Local government in Polk, De Soto, Lake, Osceola, Glades, Pembroke Pines and Broward counties have excessively assessed campgrounds for emergency service fees. Litigation has occurred in these cases and local government has consistently lost.

Avoiding the Fight in Your County.

- Local government is often unaware of the litigation that has resulted from improper tax assessments for RV parks and campgrounds. Educate your local officials on the lawsuits that have occurred in other counties and the consistent ruling of the courts in favor of campgrounds.

- If your county or city commission is considering a special assessment, act quickly by sending them the letter and background materials contained in this kit. Educating your local government on the proper assessment of fees in accordance to the law is the only way to protect yourself from excessive tax assessments and the expense of a legal battle.
KLWTD Board Meeting
July 21, 2004

Item PE1

Report on the Design Review
Design Review Status

The 90% WWTP drawings were received. WEC has reviewed the documents and provided written comments. See attached. The review meeting is scheduled for 9:00 AM on Thursday, July 15th. Jeff Weiler will be attending in Ed Castle’s place. A verbal update will be provided at the Board meeting.
KLTV WWTP 90% Design Review Comments

General comments:

- We need the chemical feed pumps to run off the Fluidyne PLC so we can time chemical additions to coincide with biological processes and with effluent pumping through filters.
- I like the biological odor control, but am not sure how the air handling works. The discharge from the vacuum pumps is positive pressure and will vary depending on how many, if any, pumps are running at a given time. Can the system accommodate this and still pull air from the screenings and anaerobic chambers??
- As shown, I believe the vacuum collection tank vault would require confined space entry permits to access it. We need to be able to get in there with tools easily, need access to pull the capacitance probes, pumps and motors, work the division valves, etc. I think we need more hatches, some ventilation, and stairs to meet requirements for regular access. Alternatively, provide hatches as on typical valve vaults, provide valve stem wrenches and above-grade vacuum gauges.
- The hoist on the WWTP looks good. Put sockets to accept that everywhere, and provide a pallet jack or something for moving the vacuum pumps to the loading dock and we should be OK. Just need more detail in some areas.
- Access to areas of the WWTP, filters, CCC, digester, etc is too limited. Also, grating covers access to some valves and pumps. How are anoxic, WAS and motive pumps mounted? Rails?
- Disposal wells are shown as 6” but permit application references 8”.
- Access to chemicals tough due to containment walls. How do we get drums in and out?
- We need actuated valves on the influent to each of the ISAMs so we can stop introduction of ammonia to the SAM reactor during anoxic mix in the SBR. I anticipate needing reaeration to remove excess acetate, but if we are dumping ammonia into the SAM during anox, it will carry over into the SBR on final reaeration and show up either as nitrates or ammonia.

I also think it is past time to get some detailed literature from Fluidyne and RoeVac, particularly on their controllers and the monitoring systems. We are getting an autodialer, aren’t we?

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<td>What is Q of process drain pumps</td>
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<td>EC300</td>
<td>Show clear 2.6 acres, all sheets</td>
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<td>C1</td>
<td>Need catch basin detail</td>
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<tr>
<td>C2</td>
<td>Size water service and RPS for future needsC3</td>
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<td>Note 8 for fencing references C103 and C501, non-existent sheets</td>
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<td>C301</td>
<td>Stairs on digester/ EQ appear to be in tank, clarify</td>
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Prepared for the KLWTD Board by:
Ed Castle, Project Manager
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<tr>
<th>Code</th>
<th>Description</th>
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</table>
| C305  | - Where is digester decant piping  
|       | - 8” FA line tied to 3” PD line – meant to drain odor control system? |
| L300  | Increase to 2.6 acres |
| S     | General comments from WEC structural  
|       | - District is better served by designer selecting foundation type  
|       | - Keyed appears to mean a scarified contact and would offer questionable uplift resistance  
|       | - Anchor bolts by manufacturer does not adequately address tie-down |
| S300  | Vacuum vault top plan, need access to pull pumps, capacitance probes, etc  
|       | Access thru 4’ X 4’ hatch only, ladder, not stairs? General comments on vault:  
|       | - It appears this will be a permit-required confined space, not acceptable  
|       | - Needs ventilation  
|       | - Needs lighting  
|       | - Easy access for men and tools  
|       | - Vacuum gauges from vacuum mains must be visible while working division valves  
|       | Alternatively, design top as typical valve vault with access hatches, provide valve stem wrenches to operate valves from above, position vacuum gauges above-ground where visible to operator. |
| S303  | Show workbenches, vacuum valve work station |
| S306  | CCC length:width ratio at centerline 8:1, minimum is 10:1, with 40:1 preferable. Short-circuiting likely. Recommend install baffles |
| S307  | Need safe access to chemical storage. Containment prevents access |
| M     | General Comments  
|       | - Show hoist sockets for pulling all pumps, motors  
|       | - Provide gantry or pallet jack for moving vacuum pumps, motors to loading dock |
| M300  | Install division valve on 3” vacuum main |
| M303  | Grating does not provide adequate access to equipment for maintenance, WWTP, decant valves, filters, CCC  
|       | - How do we access the anaerobic/trash trap for measurements, pumping?  
|       | - Grating covers valves, pumps, need access hatches |
| M304  | Pump mounting systems? Rails? For WAS, motive, anox mix?  
|       | - What is meant by Influent Diffuser Assembly? |
| M305  | Stairs into EQ tank? |
| M306  | Grating in way of pulling anox and WAS pumps  
|       | No access to WAS valves on SAM tank |
| M307  | 2” FE line from filters to sedimentation basin, is this the backwash flow?  
|       | - Clarify chemical containment and access  
|       | - Valves needed on suction side of backwash pumps  
|       | - Valves needed on effluent piping at discharge from CCC  
|       | - Adequate isolation valving on SE feed to filters? |
| M308  | Permit application states two 8” wells to 110 feet, plan shows two 6”  
|       | - Sample tap on crown of pipe, dry? Suggest sampling at end of CCC |
| M310     | • Add damper on FA line from screening  
          | • 8” FA from vacuum pumps will be positive pressure, varying feed rate depending on how many pumps running. Can odor fan deal with this? Still pull suction on anaerobic and screening FA lines?  
          | • C305 shows 3” PD tied into 8” FA line, and 8” FA line sloped toward sump. Is FA line to drain the odor control tanks? M310 detail shows inlet to tanks elevated. |
|----------|----------------------------------------------------------------------------------|
| P300     | • Vent on HOCl tank?  
          | • Bypass piping and valves around RS flow meter (for servicing meter)  
          | • Process drain piping isolation valve  
          | • Place two valves, one each leg of 1” HOCl line  
          | • Blow back piping to HOCl tank from PCV  
          | • PCV settings?  
          | • Effluent meter shown as diaphragm valve  
          | • Bypass piping and valves around effluent flow meter  
          | • Isolation valves on HOCl rotameters |
| P301     | • Blowback piping on alum and SA PCVs  
          | • Isolation valves downstream of check valves  
          | • Drum vents?  
          | • Again, how do we get drums in and out of the containment structure? |
| E300     | Is lightning protection provided? |
| E6       | • 30-amp disconnects shown for all loads, smaller will do  
          | • 300 amp disconnect to Fluidyne panel seems large |
KLWTD Board Meeting
July 21, 2004

Item C1

Report on the Florida Keys Water Quality Improvement Program Meeting
Florida Keys Water Quality Improvements Program (FKWQIP)
Program Management Team (PDT)
Agenda

July 9, 2004
Meeting Location: Marathon Government Center, Marathon, FL

10:00 - 10:10 am  WELCOME AND INTRODUCTIONS (Cecelia Weaver, SFWMD/Shelley Trulock, Corps)

10:10 - 10:15 am  NEW BUSINESS (Cecelia Weaver, SFWMD/Shelley Trulock, Corps)

10:15 - 10:30 am  STATUS OF FEDERAL APPROPRIATIONS FY 04 AND FY 05 (Shelley Trulock, Corps)

10:30 - 10:30 am  STATE FUNDING (Ted Banks, FDEP)

10:30 - 11:00 am  STATUS OF PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT/REVIEW OF PUBLIC COMMENTS & ENVIRONMENTAL JUSTICE ISSUE (Tom St. Clair, EPJ/V and Shelley Trulock, Corps)

11:00 - 11:30 am  STATUS OF PRIORITY PROJECTS (Report from each Municipal Government)

11:30 - 11:45 am  BREAK

11:45 - 12:15 am  LOGISTICS OF REIMBURSEMENT (John Pax, Corps)

12:15 - 12:30 pm  NEPA STRATEGY FOR PRIORITY PROJECTS (Tom St. Clair, EPJ/V)

12:30 - 12:45 pm  ALLOCATION STRATEGY FOR ALLOCATION OF AVAILABLE FUNDS (Trish Carney, EPJ/V)

12:45 - 12:55 pm  FUTURE ACTIONS (Shelley Trulock, Corps/Cecelia Weaver, SFWMD)

1:00 pm  ADJOURN
Section 109. Florida Keys Water Quality Improvements.
(a) Secretary of the Army may provide technical and financial assistance to carry out projects for the planning, design and construction of treatment works to improve water quality in the Florida Keys National Marine Sanctuary.

(b) Before a cooperative agreement, the Secretary shall ensure
   (1) NFS has completed adequate planning and design, as applicable
   (2) NFS has completed a financial plan identifying sources of NF funding
   (3) Project complies with
      (A) applicable growth management ordinances of Monroe County
      (B) applicable agreements between Monroe County and State of Florida to manage growth
      (C) applicable water quality standards
   (4) is consistent with the master wastewater and storm water plans for Monroe County

(c) Consideration in selecting projects, consider a project that has substantial water quality benefits relative to other projects.

(d) Consultation, the Secretary shall consult with
   (1) Water Quality Steering Committee est. under …
   (2) South Florida Ecosystem Restoration Task Force
   (3) Commission on the Everglades
   (4) Other appropriate State and local government officials

(e) Non-Federal Share
   (1) 35%
   (2) Credit
      (A) Secretary may provide Credit
         (i) before and during the construction for the project, for the costs of planning, engineering, and design, and for the construction management work that is performed by NFS and that the Secretary determines is necessary to implement the project.
         (ii) during construction for construction by NFS that the Secretary determines is necessary to carry our project.
      (B) Credits may be carried over between projects

(f) Authorization of Appropriations—authorized to be appropriated $100,000,000.
<table>
<thead>
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<th>Organization</th>
<th>Telephone</th>
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AUG 4
ATT, FAITH D.

BACK UP FOR AUG 4
MEETING

GM 4 - FAITH INCLUDE
8½ x 11 CALENDAR FOR SEPT
OCT. NOV. - GET C. BROOKS
TO INDICATE NIGHTS
CIVIC CLUB IS AVAIL.

CPE.
Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Minutes
5:00 PM Wednesday, June 16, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present
Gary Bauman, Chairman
Erie Beatty
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present
Charles F. Fishburn, General Manager
Thomas Dillon, Board Attorney
Ed R. Castle, Board Engineer
Faith Doyle, Board Clerk
David R. Miles, CFO, via telephone

Guests Present
Steve Gibbs, reporter
Joan Mowery-Barrow, Key Largo resident
David Barrow, Key Largo resident
Ann Henson, reporter
Will English, Project Manager, The Haskell Company

I. Call to Order
Chairman Bauman called the meeting to order at 5:05 p.m.

II. Pledge of Allegiance
The pledge was recited.

III. Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Wilkinson requested that all manager housekeeping items be moved up on the agenda. The Chairman agreed to move the manager items after the G1 action item was acted on.

Commissioner Brooks requested that Item G5, the DCA grant agreement be tabled or moved to the general manager items for discussion. Comm. Brooks made the suggestion because the
ATT: FAITH AUG 4

AGENDA

ITEMS

IV - APP. DRAFT, JULY 20-22
   JULY 21-24

ACTION -

AC1 - APP. PROG. CONTRACT
AC2 - APP. NOTICE TO PROCEED

CFO-1 - P&F PAYMENT AUG 4
CFO-2 - Pres. DRAFT 2005
OP. BUDGET
CFO-3 - PRESENT T
   DRAFT 2005
CAPITAL BUDGET
CFO-4 - STATUS OF FORM 1 FUNDS
CFO-5 - STATUS OF TRANSITION
   TO CFO FUNCTION

X - GM. REPORT

GM 1 - STATUS OF KINGS KEN
GM 2 - STATUS OF THE SITE
GM 3 - REPORT 2MI7164TD
GM 4 - MEETINGS
   LOW COMMUNITY MEETING
   FOR SEPT, OCT, NOV
GM 5 - STATUS OF NEW BUILDING
FAITH,

PLEASE BE

ACONF CALL

FOR 2 PM TODAY
MON 2-26-07

BETWEEN

CFM

M. WAITES

M. W. McCON.

E. CASTLE

SUBJECT: OF

BUDGETS,

CFM.
I - Call to Order

II - Pledge of Allegiance

III - Additions, Deletions or Corrections to the Regular Meeting Agenda


V - Public Comment

VI - Legal Counsel's Report

VII - Action Items

AC 1 - Approval of the PRMG Consulting Contract
AC 2 - Approval of the Haskell Company’s Notice to Proceed

VIII - Chief Financial Officers Report

CFO 1 - Approval of the Pending Payments List for August 4, 2004
CFO 2 - Presentation of the Draft FY2005 Operations Budget
CFO 3 - Presentation of the Draft FY2005 Capital Improvement Budget
CFO 4 - Status of FEMA Phase II Funds
CFO 5 - Status of Transition of the CFO Function
CFO 6 - Monthly Reports

IX - General Manager's Report

GM 1 - Status of the Kings Kamp Letter
GM 2 - Status of the Site Mitigation
GM 3 - Report on the Community Meeting
GM 4 - Meeting Schedule for September, October and November
GM 5 - Status of the New Building

XI - Engineer's Report

PE 1 - Report on the Design Review
PE 2 - Status of Sexton Cove RFP
PE 3 - Report from Haskell Project Manager
XI - Public Comment

XII - Commissioner's Item

- Report on the Florida Keys Water Quality Improvement Program Meeting – Commissioner Brooks
- Discussion of Requesting Cooperation from Monroe County and FDEP
- Concerning being Notified of Plans for Review in KLWTD Service Area – Commissioner Tobin
- Discussion of Establishing a Rate Resolution for Plan Review and Inspection
  Fees – Commissioner Tobin

Cl 4 - Update on past agenda items:

A. FEMA FONSI Status
B. Water Quality Testing
C. Resolution of $100K Loan repayment issue
D. Site mitigation
E. KLP vacant lot resolution
F. Project request for FEMA deadline extension
G. CDBG Grants and/or funds for private connections
H. Procedures
I. Web Site Development
J. Elections at Large versus Seats

XIII – Meeting Adjournment
DRAFT

Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Agenda
5:00 PM Wednesday, August 4, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

I - Call to Order

II - Pledge of Allegiance

III - Additions, Deletions or Corrections to the Regular Meeting Agenda


A) V - Public Comment

A) VI - Legal Counsel's Report

A) VII - Action Items

AC 1 - Approval of the PRMG Consulting Contract
AC 2 - Approval of the Haskell Company's Notice to Proceed

VIII - Chief Financial Officers Report

CFO 1 - Approval of the Pending Payments List for August 4, 2004
CFO 2 - Presentation of the Draft FY2005 Operations Budget
CFO 3 - Presentation of the Draft FY2005 Capital Improvement Budget

A) CFO 4 - Status of FEMA Phase II Funds
A) CFO 5 - Status of Transition of the CFO Function

A) IX - General Manager's Report
B)
C) GM 1 - Status of the Kings Kamp Letter
GM 2 - Status of the Site Mitigation
GM 3 - Report on the Community Meeting
GM 4 - Meeting Schedule for September, October and November
GM 5 - Status of the New Building
A) GM 6 – Report on the Florida Keys Water Quality Improvement Program
B) GM 7 – Discussion of Requesting Cooperation from Monroe County and FDEP
C) Concerning being Notified of Plans for Review in KGWTD Service

GM 8 - FKAH Connection on Bill
GM 9 - TDR Update

KGWTD August 4, 2004 Agenda - Page 1 of 2

A) X - Engineer's Report
   PE 1 - Report on the Design Review
   PE 2 - Status of Sexton Cove RFP
   A) PE 3 - Discussion of Establishing a Rate Resolution for Sewer Plan Review and
   B) Inspection Fees
   C) PE 4 - Report from Haskell Project Manager

A) XI - Public Comment
A) XII - Commissioner's Item
A) XI - Public Comment
A) XII - Commissioner's Item

A) CI 1 - Update on past agenda items:
   A. FEMA FONSI Status
   B. Water Quality Testing
   C. Resolution of $100K Loan repayment issue
   D. Site mitigation
   E. KLP vacant lot resolution
   F. Project request for FEMA deadline extension
   G. CDBG Grants and/or funds for private connections
   H. Procedures
   I. Web Site Development
   J. Elections at Large versus Seats

XIII - Meeting Adjournment
DRAFT

Key Largo Wastewater Treatment District
Board of Commissioner's Meeting Minutes
5:00 PM Wednesday, July 21, 2004
Key Largo Civic Club, 209 Ocean Bay Drive
Key Largo, Monroe County, Florida

Board Members Present

Gary Bauman, Chairman
Cris Beaty (joined the meeting at 5:05 pm)
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present

Charles Fishburn, General Manager
Thomas Dillon, Board Attorney
Martin Waits, Chief Financial Officer
Ed Castle, P.E., Board Engineer
Carol Simpkins, Board Clerk

Guest Present

David Miles, GSG (via telephone)
Faith Doyle, GSG (Acting Clerk)
Steve Gibbs, reporter
Walt Messer, DN Higgins
Stu Oppenheim, Brown and Caldwell
Peter Kinsley, the Haskell Company
Rob Ori, PRMG
Freddie Fountain, DN Higgins
John Dermody
Mark Weis, Key Largo Resident
Robert E. Burt, KLTV
Glenn Patton, Key Largo Resident

1 - Call to Order

Chairman Bauman called the meeting to order at 5:00 p.m.
II - Pledge of Allegiance

The pledge was recited.

III - Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Wilkinson requested adding the emailing of action minutes the day after the meeting.

Mr. Fishburn requested Item AC 6 – be added as action on the Santee building. The Board requested it be a discussion item only under the General Manager's section.

Mr. Fishburn requested adding Item GM 6 – concerning the meetings in September, October and November and having meetings video taped.

IV - Approval of the Draft July 7, 2004 Meeting Minutes

No action was taken on this item.

A) V - Public Comment

There was no public comment.

VI - PRMG Presentation on Rate Study

Mr. Rob Ori was introduced from PRMG to address the issue of conducting a rate study for KLWTD. Mr. Ori gave details on what PRMG would do for the KLWTD. Different rates were described. Mr. Ori noted that PRMG has a good working relationship with the FKAA on data sharing data. PRMG has done summary data for KLWTD and the model previously provided would be updated. Mr. Ori stated that he prefers to bill hourly as a rate consultant.

Discussion ensued on the initial study being a financial overview and not a rate design. Discussion ensued on FKAA's rate per edu and the fact that water rates and wastewater costs should coincide and be consistent. Rate design was described (flat, consumption or a combination of the two). Mr. Brooks questioned the consumption method in relation to commercial users. It was discussed. Mr. Brooks questioned the relation of operations costs to setting rates. It was discussed.

Mr. Ori noted that operating costs and the capital costs are critical and they must include growth. Mr. Ori suggested a five-year forecast and cash flow because expansion is difficult to plan for and would help to identify the additional costs.

Discussion ensued on the $35 dollar rate that the community is anticipating and the $2,700 connection fee and if it could be applied for this project and then changed in the future. Discussion ensued on the current project costs and the
LC 3 - Status of Calusa Condo Document Review

Mr. Dillon reviewed the document that had been distributed by email and was not included in the agenda package. The clerk distributed copies.

LC 4 - D.N. Higgins letter dated 7-14-04

Mr. Dillon distributed the response made by Higgins to Mr. Dillon's concerns. Mr. Dillon stated that the contract is clear on not permitting the claims that Higgins requested. Mr. Fishburn noted that he had discussed the issue with Higgins and a discussion prior to forwarding the letter would have resolved the issue.

Mr. Fishburn stated that Haskell intends to get numbers from Higgins on consolidating the park and to amend the contract so that Haskell would be the engineer of record and the contract would include installation of the collection system. Mr. Fishburn noted that Roevac and Fluidyne have asked for price increases. Mr. Fishburn noted that the KLP and KLTG collection systems need to be completed at the same time and the issue should be resolved by Friday. Mr. Fishburn stated that he would update the Board by email on the issue.

A) VIII - Action Items

AC 1 – Approval of the Clerk's Employment Agreement

Commissioner Wilkinson moved to approve item AC 1. Commissioner Tobin seconded the motion. Commissioner Brooks stated that he had received an email this week that disturbed him concerning a vacation for a new employee. He was concerned that the vacation policy is not defined properly in the contract, and that a vacation should be at the convenience of the Board and it should be accrued. Commissioner Tobin also expressed concern. Ms. Simpkins asked if it was a paid vacation or unpaid leave and asked if when the request was received if it was set against the policy. Chairman Bauman stated that the District must protect itself from employees taking twelve days of paid vacation and then quitting.

Mr. Waits commented that the District has its first employees without policies in place. The policies need to be done soon and that personnel policies in most instances have vacation time earned on an accrual basis. However, if there were prior commitments that should have been considered prior to employment, this could be handled as a non-paid leave of absence. Chairman Bauman agreed and asked Mr. Dillon if this issue should be in a policy statement or in the contract. Mr. Dillon stated it should be addressed in a policy statement that is part of the contract. Chairman Bauman asked if it would be acceptable to change the contract to include vacation is to be accrued one day for each month up to 12 days annually. Commissioner Beaty questioned the minimum duties. Mr. Dillon stated they were drafted by the transition committee and Mr. Fishburn. Commissioner Brooks asked about the title change to administrative officer. Mr. Dillon stated that it was the consensus of the Board as expressed at the last meeting.

WASH WHAT
CAROL WANTS TO BE CALLED BOARD CLERK.
Chairman Bauman recessed the meeting at 7:15 p.m.
Chairman Bauman reconvened the meeting at 7:30 p.m.

A) X - General Manager's Report

B)  
Mr. John Darmady was introduced by Mr. Fishburn to address the sewer strategy issue. Mr. Darmady has worked with the City of Marco Island and believes gravity can be considered in the future. He offered his assistance to the Board and invited questions.

A) GM 1 - Status of the Kings Kamp Letter

Mr. Fishburn informed the Board that he had further conversations with Kings Kamp and they are under a health department warning. Mr. Fishburn stated that Kings Kamp had requested help in determining a compatible system for future hook up to the KLWTD system.

Mr. Fishburn stated that in the future he would like to review all plans submitted to the County. Mr. Fishburn stated that there is a need to look at plan review and inspection fees for the District.

Commissioner Tobin requested a discussion item for the next agenda concerning requesting cooperation with the County and FDEP on being notified of plans that would affect the KLWTD system.

Commissioner Tobin requested a discussion item for the next agenda concerning a resolution to set rates for plan review and inspection fees for the District.

GM 2 - Status of the Site Mitigation

Mr. Fishburn noted that the exotic permit is in hand and once a notice to proceed is issued to Haskell they would start the invasive removal of exotics and do the geotechnical studies. Mr. Fishburn talked with Mr. Garrett concerning the mitigation plan costs and they will be presented to the County at the next BOCC meeting held in Key Largo.

GM 3 - Status of the System Development Charge

Mr. Fishburn stated this issue would be addressed after the rates are reviewed.

GM 4 – Plan for Community Meeting

The agenda was distributed for review. Video taping the meeting was suggested and discussed. Mr. Fishburn noted that there would be a manhole demonstration and that Mr. Mark Bell would be present to describe the low-income program.
GM 5 – NOTICE TO PROCEED

Mr. Fishburn stated that once the FEMA Phase II agreement is in place the Notice to Proceed should be issued. Mr. Dillon asked the Board for direction on who should sign it. Commissioner Tobin stated that he had talked with Jeb Bush and invited him to be present at the groundbreaking. Mr. Bush expressed interest if it were held on a Friday or a Monday. Mr. Kinsley stated that a groundbreaking ceremony could be scheduled. Mr. Kinsley noted that they would be mobilized within 30 days of receiving the notice to proceed. A tentative date for a ceremony was stated as August 15, 2004.

Mr. Dillon stated that once the FEMA Phase II agreement is signed the District could issue the notice to proceed. The Contract states that the general manager can issue the notice to proceed. It was the consensus of the Board to vote on the issuance of the notice to proceed at the August 4, 2004 meeting.

GM 6 – Discussion of the Santé Building

Mr. Fishburn noted that there is flexibility on the layout of the building. KLWTD has been requested to pay for floor coverings. The cost per square foot would include utilities. Mr. Fishburn asked for direction from the Board and requested authority to negotiate with Mr. Santé. Discussion ensued on the layout, the need for ADA compliant restrooms and the lease terms. It was suggested that Mr. Fishburn present a recommendation at the next meeting. Mr. Dillon stated that he had reviewed the lease and that it is very basic but needs work to protect the District. The lease is for a 10-year term with annual options to renew. Discussion continued. Chairman Bauman suggested the Board would consider a contract at $12 dollars per square foot with utilities included for a 3-5 year term and a one-year cancellation clause.

Mr. Fishburn stated that the September, October, and November meeting schedule would be presented at the next meeting.

Commissioner Beaty excused himself from the meeting at 8:00 pm.

Mr. Fishburn noted that five boxes of records had been received from GSG in Tallahassee.

Televised meetings were discussed and it was suggested that the schools be approached to do it for donations or if the County wants to televise the meetings they would need to provide the services.

Mr. Fishburn stated that his vacation was scheduled between two Board meetings and that he would accept the time off to be considered unpaid leave. It was the pleasure of the Board.

Mr. Dillon informed the Board that he would be on vacation from August 19 until
consumption/edu issue. He expressed concern about KLTV residents being guinea pigs for the $2,700 start up costs being used for future expansions. He believes residents don't want to subsidize future expansion and that grant money should be sought in addition to hook up fees for future expansion. He also is concerned with the demolition of septic tanks prior to knowing if the sewer system works. He questioned the hook up dates and the process required and suggested plumbers. Mr. Burt questioned if someone would be visiting the property owners to determine where lines will run.

Discussion ensued on staff stating $35/mo and $2700 fees. Chairman Bauman suggests not stating certainties only that the Board hopes to adhere to a $35/mo rate. Mr. Fishburn stated that he doesn't believe the rate can be supported with the information he has seen.

Chairman Bauman stated that if the Board has made no policy decision it should be stated as such by the general manager.

Mr. Dillon suggested keeping track of the questions asked and the responses given so that the information could be distributed to those unable to attend.

The screening of plumbing contractors was discussed. Ms. Simpkins stated that CDBG might have plumbers pre-approved that must be used.

The decommissioning of septic tanks was discussed.

A) XIII - Commissioner's Item
   A) CI 1 – Report on the Florida Keys Water Quality Improvement Program Meeting –
   B) Commissioner Brooks

Commissioner Brooks presented the information provided. Chairman Bauman suggested it be reviewed for discussion at the next meeting.

Commissioner Brooks stated that the July 9 meeting was for liaisons and was to discuss the potential $100 million to be allocated by Congress via SWFWMD. The KLWTD is eligible for $368,000 less overhead or a net amount of $330,000 that is ready to be disbursed this coming fiscal year. If the KLWTD is not ready this year with a project plan the KLWTD could lose the $330,000 grant money plus an additional $4.5 million in the next fiscal year that is in Congressional Committee to be appropriated. The criteria were included for review. Commissioner Brooks invited Mr. Fishburn as manager because he will need to put the submittal documents together for funding. Commissioner Brooks stated that the KLWTD should amend the PMP to update the sewer system needs for Key Largo. There may only be a few weeks to prepare the information for the next PMP, which is the guideline for appropriating the money. KLWTD must have a project ready to proceed for the $330,000. Discussion ensued on the documentations necessary to submit a project for consideration. It was noted
Board Members Present

Gary Bauman, Chair
Cris Beaty (joined the meeting at 5:05 pm)
Charles Brooks
Andrew Tobin
Jerry Wilkinson

Staff Present

Charles Fishburn, General Manager
Thomas Dillon, Board Attorney
Martin Waits, Chief Financial Officer
Ed Castle, P.E., Board Engineer
Carol Simpkins, Board Clerk

Guest Present

David Miles, GSG (via telephone)
Faith Doyle, GSG (Acting Clerk)
Steve Gibbs, reporter
Walt Messer, DN Higgins
Stu Oppenheim, Brown and Caldwell
Peter Kinsley, the Haskell Company
Rob Ori, PRMG
Freddie Fountain, DN Higgins
John Darmady
Mark Weis, Key Largo Resident
Robert E. Burt, KLT
Glenn Patton, Key Largo Resident

I - Call to Order

Chairman Bauman called the meeting to order at 5:00 p.m.

II - Pledge of Allegiance

The pledge was recited.

III - Additions, Deletions or Corrections to the Regular Meeting Agenda

Commissioner Wilkinson requested adding the emailing of action minutes the day after the meeting.
Mr. Fishburn requested Item AC 6 – be added as action on the Santee building. The Board requested it be a discussion item only under the General Manager’s section.

Mr. Fishburn requested adding Item GM 6 – concerning the meetings in September, October and November and having meetings video taped.

IV - Approval of the Draft July 7, 2004 Meeting Minutes

No action was taken on this item.

V - Public Comment

There was no public comment.

VI – PRMG Presentation on Rate Study

Mr. Rob Ori was introduced from PRMG to address the issue of conducting a rate study for KLWTD. Mr. Ori gave details on what PRMG would do for the KLWTD. Different rates were described. Mr. Ori noted that PRMG has a good working relationship with the FKAA on the sharing data. PRMG has done summary data for KLWTD and the model previously provided would be updated. Mr. Ori stated that he prefers to bill hourly as a rate consultant.

Discussion ensued on the initial study being a financial overview and not a rate design. Discussion ensued on FKAA’s rate per edu-EDU and the fact that water rates and wastewater costs should coincide and be consistent. Rate design was alternatives were described (flat, consumption or a combination of the two). Mr. Brooks questioned the consumption method in relation to commercial users. It was discussed. Mr. Brooks questioned the relation of operations costs to setting rates. It was discussed.

Mr. Ori noted that operating costs and the capital costs are critical and they must include growth. Mr. Ori suggested a five-year forecast and cash flow because expansion is difficult to plan for and would help to identify the additional costs.

Discussion ensued on the $35 dollar rate that the community is anticipating and the $2,700 connection fee and if whether they it could be applied for this project and then changed in the future. Discussion ensued on the current project costs and the operating costs. Some commissioners believe that the $35/month rate is a “target” and it is not clear whether that target will be achieved. Commissioner Brooks doesn’t feel that a full-blown rate study is necessary at present. A bond feasibility study may assist with the business plan or a financial plan to be submitted for future funding.

Mr. Ori stated that a five-year forecast, a rate recommendation for sewers and a policy description on an hourly basis would fit the KLWTD budget. PRMG’s fees and a contract were discussed. A basis not-to-exceed amount of $5,000 was discussed for a rate-consulting contract.

Discussion ensued on the assistance of FKAA. Mr. Ori believes there will be a cooperative effort with FKAA when gathering data. Discussion ensued on consumption dated and flow rates. Chairman Bauman wants things as simple as possible but has a problem with the electronic data and the future billing difficulties. Mr. Ori believes the FKAA will need to be approached about billing for the district and collecting for the district. The Board directed Mr. Fishburn to contact the FKAA on the billing issue.
Discussion ensued regarding the legal issues of changing rate structures. The Board directed Mr. Dillon to speak with Mr. Ori concerning the issue. Mr. Ori cautioned that with commercial entities involved rates should be applied consistently, therefore PRMG would be engaged in a methodology as soon as possible to protect District. Mr. Fishburn agreed that these are critical issues that need to be addressed as soon as possible.

It was the consensus of the Board for Mr. Ori to submit a draft contract to Mr. Fishburn that is to be reviewed by Mr. Dillon in an amount of $5,000 for consideration at the August 4, 2004 meeting.

Bridge financing was described and discussed at the request of Commissioner Brooks.

VII - Legal Counsel's Report

LC 1 - Haskell Notice of Delay - Draft Change Order No. 2

Mr. Dillon introduced the action item and recommended it to be approved. Commissioner Tobin questioned the defining of costs. Mr. Dillon stated that he used the standard terms for defining the costs and believes there is no misunderstanding with Haskell as to what they are.

LC 2 - Prompt Pay Act Am. No. 1 to the Haskell Contract

Mr. Dillon introduced the action item and stated that it was the product of negotiations with Haskell. He addressed concerns on the prompt pay act and the need for the notice to proceed to be issued once funds are secured. It also gave notice that Mr. Fishburn would be the District contact as general manager. Mr. Dillon recommended the Amendment be approved.

LC 3 - Status of Calusa Condo Document Review

Mr. Dillon reviewed the document that had been distributed by email and was not included in the agenda package. The clerk distributed copies.

LC 4 - D.N. Higgins letter dated 7-14-04

Mr. Dillon distributed the response made by Mr. Fishburn on behalf of the District to assertions by Douglas N. Higgins, Inc. ("Higgins"), to Mr. Dillon's concerns that it was entitled to additional compensation on account of alleged delays. Mr. Dillon stated that the contract is clear on expressly does not permitting the claims that Higgins requested title Higgins to additional compensation on account of delays; Higgins is entitled to additional time, only. Mr. Fishburn noted that he had discussed the issue with Mr. Daniel Higgins, the Vice President of Higgins, and a discussion prior to forwarding the letter would have resolved the issue. Mr. Fishburn believes that this issue will be resolved amicably.

Mr. Fishburn stated that Haskell intends to get numbers from Higgins on consolidating the park and to amend the contract so that Haskell would be the engineer of record and the contract would include assume responsibility for installation of the collection system. Mr. Fishburn noted that Roevac and Fluidoyn have asked for price increases. Mr. Fishburn noted that the KLP and KLTV collection systems need to be completed at the same time and the issue should be resolved by Friday. Mr. Fishburn stated that he would update the Board by email on the issue.

VIII - Action Items

AC 1 - Approval of the Clerk's Employment Agreement
Commissioner Wilkinson moved to approve item AC 1. Commissioner Tobin seconded the motion. Commissioner Brooks stated that he had received an email this week that disturbed him concerning a vacation for a new employee. He was concerned that the vacation policy is not defined properly in the contract, and that a vacation should be at the convenience of the Board and it should be accrued. Commissioner Tobin also expressed concern. Ms. Simpkins asked if it was a paid vacation or unpaid leave and asked if when the request was received if it was set against the policy. Chairman Bauman stated that the District must protect itself from employees taking twelve days of paid vacation and then quitting.

Mr. Waits commented that the District has its first employees without policies in place. The policies need to be done soon and that personnel policies in most instances have vacation time earned on an accrual basis. However, if there were prior commitments that should have been considered prior to employment, this could be handled as a non-paid leave of absence. Chairman Bauman agreed and asked Mr. Dillon if this issue should be in a policy statement or in the contract. Mr. Dillon stated it should be addressed in a policy statement that is part of the contract. Chairman Bauman asked if it would be acceptable to change the contract to include vacation is to be accrued one day for each month up to 12 days annually, and Mr. Dillon agreed to revise the contract form. Commissioner Beaty questioned the listing of the Clerk’s minimum duties. Mr. Dillon stated they were list was drafted and reviewed by the transition committee and that Mr. Fishburn also reviewed them. Commissioner Brooks asked about the title change to administrative officer. Mr. Dillon stated that he understood it was the consensus of the Board to be that the title would not change, but that assignment of administrative duties should be included in the contract as expressed at the last meeting.

With no further discussion the question was called. All were in favor and the item was unanimously approved.

AC 2 – Approval of the CFO’s Employment Agreement

Mr. Dillon noted that the title of CFO had been changed to Finance Officer.

Commissioner Wilkinson moved to approve item AC 2. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved.

Commissioner Brooks requested discussion on the vacation request made by the general manager. Chairman Bauman stated that it would be addressed under the general General managers’ Manager’s report.

AC 3 – Approval of Resolution 2004-02 Authorized Signatories on KLWTD Bank Accounts

Mr. Martin Waits stated that a final revised copy was distributed to the Board members and described the changes made. Mr. Fishburn stated the document was to transfer the authority from GSG to local staff, however the resolution should be refined to include more detail in the future.

Commissioner Brooks move the item and asked if these were to sign checks only after Board approval. Mr. Waits answered in the affirmative. It was noted that GSG staff would not sign checks after July 31, 2004. The motion was seconded by Commissioner Wilkinson. Chairman Bauman asked why Commissioner Tobin was included as a signatory. Mr. Waits stated he had considered taking him off but with the potential difficulties in locating a Board member when necessary he was left on. A scrivener’s item was noted that financial officer should be changed to Board Clerk. With no further discussion all were in favor and the motion was unanimously approved.
AC 4 - Approval of Change Order No. 2 to the Haskell Contract (162 day extension)

Commissioner Brooks moved to approve the item. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved.

AC 5 – Approval of Amendment No. 1 to the Haskell Contract

Commissioner Tobin moved to approve the item. Commissioner Wilkinson seconded the motion. All were in favor and the item was unanimously approved.

IX – Finance Officers Report

CFO 1 - Approval of the Pending Payments List for July 21, 2004

Mr. Miles reviewed the memorandum that was provided. Commissioner Wilkinson questioned the FKAA funds being held. Mr. Miles stated that he had requested a written response on May 28th and had received no response to date. Mr. Miles has been trying to find a resolution to the issue for four months.

Mr. Miles noted that Mr. Miles Anderson of the DCA had acknowledged receipt of the FEMA Phase II Documents. Mr. Miles stated that he had asked Mr. Anderson about the $495,000 of FEMA Phase I funds. It was not determined if the funds were being held until the FEMA Phase II documents were signed or until the FKAA closed out the grant.

Commissioner Wilkinson moved to approve the item. Commissioner Beaty seconded the motion. All were in favor and the item was unanimously approved.

CFO 2 – Presentation of the Draft FY2005 Operations Budget

Mr. Waits presented the draft operating budget. Mr. Waits stated that the capital budget would be presented at a future meeting. Chairman Bauman requested the excel spreadsheet be forwarded to him by Mr. Miles. The Board requested time to review and comment on the Budget for incorporation prior to the August 4, 2004 meeting. Mr. Miles brought attention to the list of assumptions used in preparing the budget. Noting he noted the $2,700 connection fee and the $35/mo/edu-EDU used in preparation of the FY 2005 Operations Budget.

CFO 3 – Status of FEMA Phase I Funds

Please see above.

CFO 4 - Status of Transition of the CFO Function

Mr. Waits presented the summary table. All dates for transition of functions will conclude by August 31, 2004. Commissioner Tobin stated concern with not completing the fiscal year. Mr. Miles stated that the disbursement function should go with the other functions for a clean transition. Commissioner Tobin questioned the closing of the books and the need for reporting to various agencies. Mr. Miles stated that the closing function could be done with and Excel spreadsheet or by hand. Mr. Miles suggested that the KJWTD would eventually need government software. Chairman Bauman and Commissioner Beaty also expressed great concern with not ending at the fiscal year. Chairman Bauman stated that he would contact Mr. Robert Sheets concerning the matter. The Board requested Commissioner Beaty speak with Mr. Sheets and Mr. Miles on the concept of continuing the CFO Function until the fiscal year end.
Chairman Bauman recessed the meeting at 7:15 p.m.
Chairman Bauman reconvened the meeting at 7:30 p.m.

X - General Manager's Report

Mr. John Darmady was introduced by Mr. Fishburn to address the sewer strategy issue. Mr. Darmady has worked with the City of Marco Island and believes gravity can be considered in the future. He offered his assistance to the Board and invited questions.

GM 1 - Status of the Kings Kamp Letter

Mr. Fishburn informed the Board that he had further conversations with Kings Kamp and they are under a health department warning. Mr. Fishburn stated that Kings Kamp had requested help in determining a compatible system for future hook up to the KLWTD system.

Mr. Fishburn stated that in the future he would like to review all plans submitted to the County. Mr. Fishburn stated that there is a need to look at plan review and inspection fees for the District.

Commissioner Tobin requested a discussion item for the next agenda concerning requesting cooperation with the County and FDEP on being notified of plans that would affect the KLWTD system.

Commissioner Tobin requested a discussion item for the next agenda concerning a resolution to set rates for plan review and inspection fees for the District.

GM 2 - Status of the Site Mitigation

Mr. Fishburn noted that the exotic permit is in hand and once a notice to proceed is issued to Haskell they would start the invasive removal of exotics and do the geotechnical studies. Mr. Fishburn talked with Mr. Garrett concerning the mitigation plan costs and they will be presented to the County at the next BOCC meeting held in Key Largo.

GM 3 - Status of the System Development Charge

Mr. Fishburn stated this issue would be addressed after the rates are reviewed.

GM 4 -- Plan for Community Meeting

The agenda was distributed for review. Video taping the meeting was suggested and discussed. Mr. Fishburn noted that there would be a manhole demonstration and that Mr. Mark Bell would be present to describe the low-income program.

GM 5 – NOTICE TO PROCEED

Mr. Fishburn stated that once the FEMA Phase II agreement is in place the Notice to Proceed should be issued. Mr. Dillon asked the Board for direction on who should sign it. Commissioner Tobin stated that he had talked with Jeb Bush and invited him to be present at the groundbreaking. Mr. Bush expressed interest if it were held on a Friday or a Monday. Mr. Kinsley stated that a groundbreaking ceremony could be scheduled. Mr. Kinsley noted that they would be mobilized within 30 days of receiving the notice to proceed. A tentative date for a ceremony was stated as August 15, 2004.
Mr. Dillon stated that once the FEMA Phase II agreement is signed, the District would have reasonable assurance of the availability of federal funds, and should could issue the notice to proceed at that time. The Contract-Design-Build Agreement provides that the General Manager is the District’s representative, and Mr. Fishburn is therefore authorized to issue the notice to proceed. It was the consensus of the Board to vote on consider the issuance of the notice to proceed at the August 4, 2004 meeting.

GM 6 – Discussion of the Santee Building

Mr. Fishburn noted that there is flexibility on the layout of the building. KKWTD has been requested to pay for floor coverings. The cost per square foot would include utilities other than electric and telephone. Mr. Fishburn asked for direction from the Board and requested authority to negotiate with Mr. Santee. Discussion ensued on the layout, the need for ADA compliant restrooms and the lease terms. It was suggested that Mr. Fishburn present a recommendation at the next meeting. Mr. Dillon stated that he had reviewed the lease and that it is very basic but needs work to protect the District. The lease is for a 10-year term with nine annual options to renew. Discussion continued. Chairman Bauman suggested the Board would consider a contract at $12 dollars per square foot with utilities included per year with for a 3-5 year term and a one-year cancellation clause option after three years.

Mr. Fishburn stated that the September, October, and November meeting schedule would be presented at the next meeting.

Commissioner Beaty excused himself from the meeting at 8:00 pm.

Mr. Fishburn noted that five boxes of records had been received from GSG in Tallahassee.

Televised meetings were discussed and it was suggested that the schools be approached to do it for donations or if the County wants to televise the meetings they would need to provide the services.

Mr. Fishburn stated that his vacation was scheduled between the August 4 and August 18th two Board meetings and that he would accept the time off to be considered unpaid leave it was the pleasure of the Board.

Mr. Dillon informed the Board that he would be on vacation from August 19 until August 30, 2004, but would be available by telephone.

XI - Engineer’s Report

PE 1 - Report on the Design Review

Mr. Castle stated that the meeting went well and the odor control issue was favorably resolved, with Haskell agreeing to install biological odor control. No other major issues are outstanding. All information is being received as requested. All comments from staff were received and are awaiting a written response. There is one more set of drawings to be received on the collection system.

Mr. Kinsley stated that the information on the redesign of the treatment plant to include a second floor was premature and the costs are being worked out and the re-submittal will be more comprehensive.

PE 2 - Status of Sexton Cove RFP
Mr. Castle stated that the information from appraisers office is being gathered and CAD work is being done that will superimpose the information on the aerial maps that were previously presented. All costs and estimates would be updated. Mr. Castle stated that FKAA would be contacted concerning using abandoned lines to reduce costs. Information is being gathering on the layout of the force main. Commissioner Brooks asked how many EDU's would result form the RFP. Mr. Castle estimates 3,000 EDU's or more if commercials are considered. Mr. Castle noted that the layout would include stubs for future expansion.

Mr. Castle informed the Board that he would be attending training on August 2, 3 and 4 and that either Jeff Weiler or Mike Hatfield would be in attendance at the August 4, 2004 meeting.

PE 3 – Report from Haskell Project Manager

Mr. Kinsley informed the Board that all collection system permits were in hand except for the FDEP, which should be in hand shortly. The Plant permits have more work to be done because Monroe County and the FDEP permits are being held because geotechnical information is required to be reviewed. The geotechnical work cannot commence until the site is cleared.

Mr. Kinsley stated that the design review meeting went well and the written response would follow, the odor control issue is being resolved and mobilization would take approximately 30 days from the notice to proceed.

XII - Public Comment

Mr. Robert Burt, President of the KLTV homeowners association addressed the Board. Mr. Burt hopes that Mark Bell would have low-income forms available at the July 22 community meeting. Mr. Burt expressed concern with the consumption/edu issue. He expressed concern about KLTV residents being guinea pigs for the $2,700 start up costs being used for future expansions. He believes residents don’t want to subsidize future expansion and that grant money should be sought in addition to hook up fees for future expansion. He also is concerned with the demolition of septic tanks prior to knowing if the sewer system works. He questioned the hook up dates and the process required and suggested plumbers. Mr. Burt questioned if someone would be visiting the property owners to determine where lines will run.

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The screening of plumbing contractors was discussed. Ms. Simpkins stated that CDBG might have plumbers pre-approved that must be use.

The decommissioning of septic tanks was discussed.

XIII - Commissioner’s Item

CI 1 – Report on the Florida Keys Water Quality Improvement Program Meeting – Commissioner Brooks
Commissioner Brooks presented the information provided. Chairman Bauman suggested it be reviewed for discussion at the next meeting.

Commissioner Brooks stated that the July 9 meeting was for liaisons and was to discuss the potential $100 million to be allocated by Congress via SWFWMD. The KLWTD is eligible for $368,000 less overhead or a net amount of $330,000 that is ready to be disbursed this coming fiscal year. If the KLWTD is not ready this year with a project plan the KLWTD could lose the $330,000 grant money plus an additional $4.5 million in the next fiscal year that is in Congressional Committee to be appropriated. The criteria were included for review. Commissioner Brooks invited Mr. Fishburn as manager because he will need to put the submittal documents together for funding. Commissioner Brooks stated that the KLWTD should amend the PMP to update the sewer system needs for Key Largo. There may only be a few weeks to prepare the information for the next PMP, which is the guideline for appropriating the money. KLWTD must have a project ready to proceed for the $330,000. Discussion ensued on the documentations necessary to submit a project for consideration. It was noted that the Sexton Cove project is too far out for the $330,000 and that the KLP build out project should be considered.

It was suggested that the project be defined for the update of the PMP and that the next KLWTD project be an action item on the August 4, 2004 agenda. Commissioner Brooks will work with staff on the PMP update and it will be submitted no later than mid-September.

Cl 2 - Update on past agenda items:
A. FEMA FONSI Status
B. Water Quality Testing
C. Resolution of $100K Loan repayment issue
D. Site mitigation
E. KLP vacant lot resolution
F. Project request for FEMA deadline extension
G. CDBG Grants and/or funds for private connections
H. Procedures
I. Web Site Development
J. Elections at Large versus Seats

There was no action or discussion on this item.

XIV – Meeting Adjournment
ATT. FAITH INCLUDE
THIS AS LAST
PAGE OF
GMC
CHUCK
R
ATT: FAITH

Include this under GM 9 Army corps.

Chuck Fishburn
Comm, Brooks, the 6th, 11th Distrcit Engineer are revising the Table 3-3
and program components working to more accurately reflect current plans.

The same group will present September
the same group will be

C.F. Fishburn
KLTV & KLP Wastewater Residents Meeting

AGENDA

I. Introduction  
   Gary Bauman, Chairman KLWTD

II. Collection System Description  
   - Vacuum System  
   - Construction Process  
   Tom Evens of Roevac
   Walt Messner of DN Higgins
   Will English of The Haskell Company

III. Connection to the Collection System and Permitting  
      Ed Castle, P.E., Weiler Engineering

IV. Abandonment of Existing Septic Systems and Permitting  
      Ed Castle, P.E., Weiler Engineering

V. Treatment Plant Description  
   - Process  
   - Construction  
      Ed Castle, P.E., Weiler Engineering
      Will English, The Haskell Company

VI. System Development Fee  
    Chuck Fishburn, KLWTD

VII. Financing Options  
    Chuck Fishburn, KLWTD

VIII. Monthly Costs  
    Chuck Fishburn, KLWTD

IX. Low Income Assistance  
    Mark Bell, Monroe County Housing Authority

X. Construction Schedule  
   - KLTV First 90 Days  
      Walt Messner, DN Higgins

XI. Conclusion  
    Gary Bauman, KLWTD Chairman

CHAIRMAN BAUMAN ADJOURNED

MEETING AT 8:40 PM.

C. F. FISHBURN
FAITH,

WOULD YOU

TYPE (SAME BASE OPTIONS) AND INCLUDE

THE FLOOR PLAN

UNDER GM, 51

THANKS

CHUCK

7-28
ATT, FAITH
include these
under GM 6,
6 TUPLE
3-3
spread sheet
w/changes,
(cannot print or view)

CEF
### Table 3-3 Florida Keys Water Quality Improvement Program Priority Project List

<table>
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<th>Entity</th>
<th>Project Priority</th>
<th>Project Name</th>
<th>Project Type</th>
<th>Hot Spot Area?</th>
<th>Rendisement (Out of 20)</th>
<th>Projected Cost of Top Priority Projects</th>
<th>Potential Allowance from Federal Funding</th>
<th>Local Match to Federal Funds</th>
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Memo

To: Key Largo Wastewater Treatment District
From: Thomas M. Dillon
CC: None
Date: 7/20/04
Re: Calusa Campground Condominium Documents

Note: This memorandum constitutes attorney work product and attorney communications.

At the request of Mr. Fishburn, I have reviewed the condominium documents provided to me for Calusa Campground. My main interest is in the ability of the condominium association to grant easements for sewers. Following are my comments:

The existing sewage treatment plant area and access roads are part of the common elements. Declarations ¶ 6.

The common elements are owned by the unit owners as tenants in common, with each lot owner owning 1/367th of the common elements. Declarations ¶ 7.

A provision of the Declarations provides that the common elements shall remain undivided, and no right exists to partition or divide any of them, except when authorized by all unit owners and the owners of all mortgages or other liens affecting all units, or when directed by a court. Declarations ¶ 10.a.

The utility easements are stated to be shown on a plat of Calusa Camp Resort, attached to the Declarations as Exhibit B. However, the print on my copy is too small to read, even with magnification.

The condominium association (Calusa Campground Condominium Association, Inc.) bylaws provide that the association has a limited power to convey a portion of the common elements to a condemning authority for the purposes of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

Bylaws, ¶ 14.1.

Based on the foregoing, I believe that the Association has the authority to grant any desired easements to the District for sewer purposes. I make no recommendation as to whether the District should request or accept such easements.
RESOLUTION 2004-02

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, DESIGNATING THE GENERAL MANAGER AND BOARD CLERK AS AUTHORIZED SIGNATORIES OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT’S BANK ACCOUNTS

WHEREAS, the Board of Commissioners of the Key Largo Wastewater Treatment District desire to designate the general manager and the clerk as authorized signatories of the Key Largo Wastewater Treatment District’s bank accounts;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT THAT:

1. The Board hereby designates Charles F. Fishburn, General Manager and Carol Simpkins, Board Clerk as authorized signatories of the Key Largo Wastewater Treatment District’s bank accounts.

2. The authority to sign all checks and other legal instruments on behalf of the Key Largo Wastewater Treatment District, pertaining to the TIB Bank of the Keys, account number 20154139006, and such other accounts as the Board may authorize to open in the future is hereby provided. This authority supercedes and replaces all prior authorizations by this Board.

3. The Board Chairman, Gary Bauman and Board Secretary, Cris Beaty, and Commissioner Andrew Tobin remain as authorized signatories on the Key Largo Wastewater Treatment District account.

4. The previous General Manager, Robert E. Sheets and Chief Financial Officer, David R. Miles will no longer be authorized to sign instruments on the Key Largo Wastewater Treatment District’s bank accounts.

5. The General Manager and the Chief Financial Officer shall be authorized to approve the encumbrance or expenditure of amounts not to exceed Two Thousand Five Hundred Dollars ($2,500.00) per transaction without prior approval of the Board of Commissioners. This approval is contingent on the General Manager or the Chief Financial Officer, insuring that the total amount encumbered or expended does not exceed the amount appropriated for that purpose. The General Manager shall provide on a monthly basis to the Board of Directors for ratification, a listing of all encumbrances and payments approved by him or the Chief Financial Officer.

6. All checks under Two Thousand Five Hundred Dollars ($2,500.00) for the Key Largo Wastewater Treatment District shall be signed by one of the authorized signatories on the District’s bank account(s). All checks in an amount greater
than Two Thousand Five Hundred Dollars ($2,500.00) shall be signed by two of the authorized signatories on the District’s bank account(s). All checks that exceed Ten Thousand Dollars ($10,000.00) shall be signed by at least one of the Board member signatories on the District’s bank account(s).

7. This change shall be effective August 1, 2004.

PASSED AND ADOPTED this 21st day of July, 2004.

KEY LARGO WASTEWATER TREATMENT
DISTRICT GOVERNING BOARD

______________________________________________
Chair, Key Largo Wastewater Treatment District

______________________________________________
Secretary, Key Largo Wastewater Treatment District
July 16, 2004

Daniel N. Higgins, Vice President
D. N. Higgins, Inc.
3390 Travis Pointe Road, Suite A
Ann Arbor, Michigan 48108

Re: Contract between D. N. Higgins, Inc., and Key Largo Wastewater Treatment District

Dear Mr. Higgins,

I acknowledge receipt of your letter of July 14, 2004 regarding the captioned contract ("Contract"). Please direct all future communications to me.

The Key Largo Wastewater Treatment District ("District") cannot agree to your demand to be compensated for increased costs of performing the contract, for the following reasons:

Paragraph 2.3 of the Contract provides that "A Notice to Proceed may be given at any time within thirty (30) days after written confirmation of receipt by KLWTD of the Florida Department of Environmental Protection grant." As D. N. Higgins, Inc. ("Higgins") was aware at the time of contracting, the Florida Department of Environmental Protection grant would not be issued until the District had received federal funding for the wastewater treatment plant that will receive the sewage to be transported through the collection system to be constructed by Higgins. Obviously, there would be little point in building a collection system that was not associated with a treatment plant. It is the position of the District that, although the Florida Department of Environmental Protection grant has been approved, the District cannot yet receive the funds, and therefore the grant has not been received as contemplated by Paragraph 2.3 of the Contract.

The District has signed all of the paperwork to receive the grant that will fund construction of the wastewater treatment plant, and expects to receive the signed grant agreement in the near future. At that time, the District intends to issue a notice to proceed to Higgins.

Your letter implies that you believe that Higgins is entitled under the Contract to demand damages for delay or, in the alternative, to terminate the Contract. We believe that such an act on the part of Higgins would constitute bad faith and a breach of contract. Chief among our reasons for this belief, as explained above, is the obvious fact that the time for issuance of the notice to proceed has not yet occurred.

Further, note that Contract Paragraph 5.19 lists the reasons for which Higgins may terminate the contract. Failure to issue a timely notice to proceed is not among them. Contract Paragraph 7.7 provides that "It is expressly agreed that the Contractor's right to seek an extension of time as provided in this Article is the Contractor's sole and exclusive remedy in the event of a delay and that in no event shall the Contractor be entitled to recover damages for any delay, regardless of the cause.

Board of Commissioners: Chairman Gary Bauman, Andrew Tobin, Cris Beaty, Charles Brooks, Jerry Wilkins
or causes for such delay." Thus, even if the District had improperly delayed issuance of the notice to proceed, Higgins's sole remedy is a time extension.

Clauses providing for "no damages for delay," except in the case of fraud, bad faith, or active interference by the owner, are legal and enforceable. See *Triple R Paving, Inc. v. Broward County*, 774 So.2d 50 (Fla. 4th DCA 2000); *Newberry Square Dev. Corp. v. Southern Landmark, Inc.*, 578 So. 2d 750 (Fla. 1st DCA 1991); *Southern Gulf Util. Inc. v. Boca Ciega Sanitary Dist.*, 238 So. 2d 458 (Fla. 2d DCA 1970); see also *McIntire v. Green-Tree Communities, Inc.*, 318 So. 2d 197 (Fla. 2d DCA 1975); *Peter Kiewit Sons' Co. v. Iowa S. Util. Co.*, 355 F. Supp. 376 (S.D. Iowa 1973); *Williams Elec. Co. v.Metric Constructors, Inc.*, 325 S.C. 129, 480 S.E.2d 447 (S.C. 1997). Clearly, the District is not guilty of fraud, bad faith, or active interference in the contract; the delay is entirely due to unanticipated delays in obtaining approval of federal funds for construction of the wastewater treatment plant.

Please be advised that if Higgins attempts to cancel the Contract unilaterally, the District will treat that attempt as a breach of contract and will seek contract damages against Higgins and its sureties.

Yours truly,

Charles F. Fishburn
General Manager

CC:

Dobson-McOmber Agency, Inc.
P.O. Box 1348
Ann Arbor, Michigan 48106-1348

Hartford Accident and Indemnity Co.
P.O. Box 3001
Tory, Michigan 48007
Resolution No. ________

A Resolution Expressing Dissatisfaction
with Brown & Caldwell Engineers

Whereas the Key Largo Wastewater Treatment District employed the firm of Brown and Caldwell as it Engineers to design a treatment collection system and wastewater treatment plant for a project in Key Largo, Florida commonly known as the Key Largo Park and Key Largo Trailer Village Projects; and

Whereas Brown and Caldwell charged the Board the sum of $600,000 for design services and negotiated an additional fee of $84,000 to revise the collection system drawings prepared by another engineer; and

Whereas the treatment plant was designed with a small office building which could be converted to add a second floor for either storage or employee housing; and

Whereas there is an affordable housing crisis in Monroe County; and

Whereas employers have an obligation to provide employee housing if possible; and

Whereas Brown and Caldwell gave the Board an estimate of $64,000 to design and engineer a second floor for the subject building; and

Whereas Brown and Caldwell is well aware that the District cannot employ another engineer to amend existing drawings to add a second floor; and

Page 1 of 2
Whereas the Board believes that a reasonable fee to design and engineer the second floor is $10,000 or less.

NOW THEREFORE, BE IT RESOLVED that the Key Largo Wastewater Treatment District hereby expresses its dissatisfaction with Brown and Caldwell for proposing an unreasonable fee.

BE IT FURTHER RESOLVED that the District would rather abandon a project rather than pay an engineer an inflated and unreasonable fee.

BE IT FURTHER RESOLVED that the District will consider Brown and Caldwell's practices before entering into any future business arrangements with Brown and Caldwell.
Faith Doyle

From: CBrooks442@aol.com
Sent: Wednesday, July 14, 2004 11:54 PM
To: jerry142@terranova.net; g.bauman@dolphinpatioandgrill.com; cris.beaty@ihrco.com; tobinlaw@terranova.net; FDoyle@govmserv.com

Subject: PDT meeting update for 7-21

TO All

For info only

Update Attached of PDT meeting July 9 th 2004

Charlie

7/16/04
Program Management Plan

Florida Keys Water Quality Improvements Program

U.S. Army Corps of Engineers
Jacksonville District

South Florida Water Management District
Section 109. Florida Keys Water Quality Improvements.

(a) Secretary of the Army may provide technical and financial assistance to carry out projects for the planning, design and construction of treatment works to improve water quality in the Florida Keys National Marine Sanctuary.

(b) Before a cooperative agreement, the Secretary shall ensure

(1) NFS has completed adequate planning and design, as applicable

(2) NFS has completed a financial plan identifying sources of NF funding

(3) Project complies with

   (A) applicable growth management ordinances of Monroe County

   (B) applicable agreements between Monroe County and State of Florida to manage growth

   (C) applicable water quality standards

(4) is consistent with the master wastewater and storm water plans for Monroe County

(c) Consideration in selecting projects, consider a project that has substantial water quality benefits relative to other projects

(d) Consultation, the Secretary shall consult with

   (1) Water Quality Steering Committee est. under ...

   (2) South Florida Ecosystem Restoration Task Force

   (3) Commission on the Everglades

   (4) Other appropriate State and local government officials

(e) Non-Federal Share

   (1) 35 %

   (2) Credit

      (i) before and during the construction for the project, for the costs of planning, engineering, and design, and for the construction management work that is performed by NFS and that the Secretary determines is necessary to implement the project.

      (ii) during construction for construction by NFS that the Secretary determines is necessary to carry out project.

      (B) Credits may be carried over between projects

(f) Authorization of Appropriations—authorized to be appropriated $100,000,000.
Florida Keys Water Quality Improvements Program (FKWQIP)  
Program Management Team (PDT)  
Agenda  
July 9, 2004  
Meeting Location: Marathon Government Center, Marathon, FL  
10:00 AM to 1:00 PM

10:00 – 10:10 am  WELCOME AND INTRODUCTIONS (Cecelia Weaver, SFWMD/Shelley Trulock, Corps)

10:10 – 10:15 am  NEW BUSINESS (Cecelia Weaver, SFWMD/Shelley Trulock, Corps)

10:15 – 10:30 am  STATUS OF FEDERAL APPROPRIATIONS FY 04 AND FY 05 (Shelley Trulock, Corps)

10:30 – 10:30 am  STATE FUNDING (Fred Banks, FDEP)

10:30 – 11:00 am  STATUS OF PROGRAMMATIC ENVIROMENTAL IMPACT STATEMENT/REVIEW OF PUBLIC COMMENTS & ENVIRONMENTAL JUSTICE ISSUE (Tom St. Clair, EPJV and Shelley Trulock, Corps)

11:00 – 11:30 am  STATUS OF PRIORITY PROJECTS (Report from each Municipal Government)

11:30 – 11:45 am  BREAK

11:45 – 12:15 am  LOGISTICS OF REIMBURSEMENT (John Pax, Corps)

12:15 – 12:30 pm  NEPA STRATEGY FOR PRIORITY PROJECTS (Tom St. Clair, EPJV)

12:30 – 12:45 pm  ALLOCATION STRATEGY FOR ALLOCATION OF AVAILABLE FUNDS (Trish Carney, EPJV)

12:45 – 12:55 pm  FUTURE ACTIONS (Shelley Trulock, Corps/Cecelia Weaver, SFWMD)

1:00 pm  ADJOURN
On Friday, July 9, 2004 The Project Management Team (PDT) held a meeting concerning issues about the Federal funding regarding the congressional action to authorize $100 million for Monroe County wastewater projects. As the KLWTD liaison I attended this meeting and this is an update for the KLWTD Board for informational purposes.

I also invited and Chuck Fishburn attended the meeting. Since Mr. Fishburn as our manager will be responsible for all the requirements that are necessary to obtain the Federal funding I believe it is time for him to also be involved in this funding source.

Key Points
• History/Background
• Status of Federal Appropriations and Future Funding
• Status of the Priority Projects
• Logistics of Reimbursement
• Allocation Strategy for Allocation of Available Funds
• Future Actions
• Recommendations/Actions/Goals for KLWTD

History/Background

Lobbying for Federal money started back as early as 1997 and various groups throughout Monroe County began lobbying Congress for Federal assistance in sewerig Monroe County. It has been a long and dubious process but because of tenacious team involvement (countywide) the Federal money is beginning to flow.

The US Army Corps of Engineers is responsible by congressional act for the disbursement and regulation of the funding disbursements. The Corps has required that a nonfederal sponsor be the direct funding Authority to the various government entities. In this case the Corps has directed The South Florida Water Management District to be the nonfederal sponsor (NFS). What this means is the KLWTD will make all applications and request for reimbursements to the South Florida Water Management District (SFWMD).

The Project Management Team (PDT) has derived from the Intergovernmental Task Force. In both cases these committees are made up of all the government entities in Monroe County. It is comprised of representatives from each area such as unincorporated Monroe County, Marathon, Islamorada, Key Largo and other areas.

Submitted KLWTD by Charlie Brooks
The Corps's congressional responsibility for disbursement of these wastewater funds is a new endeavor for the Corps. The Corps has no experience in these matters and has asked the County and the entities therein to come together and to develop procedures and protocol to establish equitable formulas and procedures for disbursements. The PDT is a local mechanism that has been meeting with the Corps and SFWMD to establish the equitable formulas, procedures and regulations necessary for disbursement.

**Status of Federal Appropriations and Future Funding**

There is now on the table for the budget year 2004 a total of $2.3 million for all of Monroe County to be proportionately divided among the various entities by a reestablished formula. There is also the possibility of $4.5 million additional grant money now going through congressional committees for appropriations for the year 2005. Key Largo as the other entities are in a dubious position of needing to be ready (readiness to proceed) in order to obtain their agreed-upon percentage of the funds. Should any of the entities (Key Largo included) not be ready to proceed they risk losing their share of the Federal funds.

The PDT/IGTF has established a formula whereby Key Largo Wastewater Treatment District is to receive 29.6% of the appropriated funds as they come and are disbursed from the overall $100 million grant. This formula has a caveat, the K LWTD must document that they have a Project "ready to proceed."

At a previous meeting of the PDT we had appropriated funds ready for disbursement $2.3 million for the "ready to proceed projects." Which would mean Key Largo if ready to proceed would be available for $368,000 of Federal grant money. Unfortunately due to Corps's and SFWMD overhead costs the $368,000 has been reduced to $333,000.

At this meeting the Corps's establish and passed out requirements for the K LWTD and other entities must document in order to apply for and establish a projects' "readiness to proceed". These are established statues in section 109 Florida Keys Water Quality Improvements Act. See the attached copy of the requirements along with the PDT agenda for July 9, 2004.

No conclusions were made on the other Key points.
Recommendations/Actions/Goals for KLWTD

There is still an opportunity to amend the PMP Project Management Plan. This is the guiding document the Corps/SFWMD will use for allocation of the Federal funds. Since the District was recently established and the PMP began drafting prior to the KLWTD existence the PMP still needs further amendments to accurately establish the guidelines for Key Largo's funding.

**Recommendation** The KLWTD ASAP make amendments to the PMP that more accurately portrays the economical engineering factors involved and necessary to provide a sanitary sewer system in Key Largo.

**Recommendation** The KLWTD staff posthaste establishes a project ready to proceed. That the KLWTD staff will prepare necessary documents for a Project that is a "ready to proceed project" using the Corps statutory requirements in section 109. Florida Keys Water Quality Improvements Act. Here in attached.

Respectfully Submitted
Commissioner Charlie Brooks
KLWTD
July 21, 2004

Attachments:
Section 109 Florida Keys Water Quality Improvements Act
PDT Meeting Agenda July 9, 2004
Facsimile Letter

To: Faith Pyle  
at: GSS

Fax No.: 407-629-6963  
Total No. Of Pages: 12 (including this cover sheet)

Message:

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Rebecca

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MONTHLY PROGRESS REPORT
FOR
DESIGN/BUILD WASTEWATER MANAGEMENT SYSTEM FOR THE
KEY LARGO TRAILER VILLAGE AREA
KEY LARGO, FLORIDA

MONTH OF JUNE, 2004
REPORT NO. 11

Submitted By:

William T. English
PROJECT MANAGER

Distribution:  Mr. Ed Castle, P.E./The Weiler Engineering Corp.
              Mr. Stuart Oppenheim/Brown & Caldwell
              Mr. Peter M. Kinsley/The Haskell Company
              Mr. John Weir/The Haskell Company
              Mr. Chuck Fishburn/District General Manager
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  - Design and Permitting
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  - Construction
  - Information Required To/From Owner

SECTION TWO
- Project Schedule Narrative
  - Project Schedule
  - Key Dates

SECTION THREE
- Accounting Narrative
  - Contract Status
  - Payment Status

SECTION FOUR
- Photographs
General Progress of the Work

The Haskell Company continued design and permitting of the vacuum collection system for the Key Largo Village and Key Largo Park as well as the wastewater treatment plant during the month of June.

Design and Permitting

The design team issued the 99% Collection Drawings for review on June 17, 2004 and the 99% Wastewater Treatment Plant Drawings on June 30, 2004. Both design review meetings have been tentatively scheduled for early July.

The following summarizes the work performed by The Haskell Company and Brown & Caldwell in the month of June:

- Brown and Caldwell continued design of the Key Largo Village and Key Largo Park Collection System as well as design of the wastewater treatment plant.

Design Issues:

- Comments received for the 99% Collection System design drawings were received and will be discussed at the design meeting.

Permitting:

- The permit applications for the DEP, FDOT and Monroe County Right-of-Way have been submitted for the Key Largo Park and Key Largo Village Collection Systems.
- The Planning Commission has reviewed and recommended approval for a minor conditional use permit. A resolution will be drafted for internal review and formal approval at the commission meeting on July 7th.
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* Comments received from permit application.
Procurement

The following scopes of work were procured during the month of June:

- Initiated discussions with a local land clearing and excavation subcontractors.
- Distributed plans for preliminary pricing on reinforcing and structural steel.

Construction

No construction has begun at this time. First activities for the collection system and wastewater treatment plant are scheduled for August of 2004.

Information Required To/From Owner

To Owner:
- None at this time.

From Owner:
- Decision on how to treat Calusa Campground.
- Direction regarding KLWTD purchased equipment.
Work performed in the month of June:

- Prepare 99% Design Development Submittal – Treatment Plant
- Prepare 99% Design Development Submittal – Collection System

Work to be performed in the month of July:

- Submit for Monroe County Building Permit.
- Prepare Final Design Documents – Treatment Plant
- Prepare Final Design Documents – Collection System
- Planning Commission Formal Approval – July 7, 2004

Unresolved schedule delays experienced on the project:

**Issue No. 01-012 – FEMA Environmental Assessment**

- On October 13, 2003, The Haskell Company received an e-mail from GSG stating that due to delays associated with FEMA’s Environmental Assessment, construction would be delayed until March of 2004. In response to that message, on October 13, 2003 The Haskell Company issued a Notice of Delay.
- The Haskell Company received March 31, 2004 memorandum from Thomas Dillon, denying reimbursement of time and cost associated with Issue 01-012.
- On May 24, 2004 The Haskell Company received a memorandum from Thomas Dillon advising the Board to grant additional contract time of 90 days, and that further
time and compensation would be addressed at a later time.

- In an email dated 6-28-04, Tom Dillon stated that the District's General Manager should request a change order from Haskell changing the substantial completion to January 10, 2006 (August 1, 2005 plus 162 days). The change order should include the following recitations: "Haskell acknowledges and agrees that the District does not concede that Haskell has provided sufficient information to allow the District to conclude that Haskell is entitled to additional contract time in any amount. The District is granting additional contract time as partial settlement or a disputed issue and in consideration of Haskell's agreement that it is waiving forever any claim that it might make for extended overhead and similar costs incurred on account of the additional contract time allowed." "Further Haskell acknowledges and agrees that the District does not agree that Haskell has demonstrated entitlement to additional compensation for material, labor, or other cost increases, and the parties agree that these issues will be addressed at a later date."

Issue No. 01-003 – Selection of Secondary Treatment Process
- On October 17, 2003, the KLWTD postponed their decision regarding selection of the secondary treatment process. In response to that postponement, on October 31, 2003 The Haskell Company issued a Notice of Delay.
- On November 5, 2003, the KLWTD postponed their decision regarding selection of the secondary treatment process.
- On November 19, 2003, the KLWTD again postponed their decision regarding selection of the secondary treatment process.
- On December 3, 2003, the KLWTD selects USBF in lieu of SBR as the secondary treatment process for the project.
- On December 12, 2003, The Haskell Company issued a continuation of the October 31, 2003 Notice of Delay due to KLWTD's selection of a treatment process not capable of meeting the effluent requirements of the project.
- On December 29, 2003, The Haskell Company responded to

- On January 14, 2004, the KIWTD voted to use SBR as the secondary treatment process.
- The Haskell Company received March 31, 2004 memorandum from Thomas Dillon, denying reimbursement of time and cost associated with Issue 01-003.
- The Haskell Company received May 24, 2004 a memorandum from Thomas Dillon advising the Board to grant additional contract time of 90 days and that further time and compensation would be addressed at a later time.
- In an email dated 6-28-04, Tom Dillon stated that the District’s General Manager should request a change order from Haskell changing the substantial completion to January 10, 2006 (August 1, 2005 plus 162 days). The change order should include the following recitations: “Haskell acknowledges and agrees that the District does not concede that Haskell has provided sufficient information to allow the District to conclude that Haskell is entitled to additional contract time in any amount. The District is granting additional contract time as partial settlement or a disputed issue and in consideration of Haskell’s agreement that it is waiving forever any claim that it might make for extended overhead and similar costs incurred on account of the additional contract time allowed.” “Further Haskell acknowledges and agrees that the District does not agree that Haskell has demonstrated entitlement to additional compensation for material, labor, or other cost increases, and the parties agree that these issues will be addressed at a later date.”
ACCOUNTING NARRATIVE
June 2004

The Current Contract Status is as Follows:

a. The current contract amount including one Change Order is $8,043,767

<table>
<thead>
<tr>
<th>Original Contract Amount</th>
<th>$7,970,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approved Changes</td>
<td>73,767</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>$8,043,767</td>
</tr>
</tbody>
</table>

b. The following change proposals have been submitted for consideration:
- KLTWD approves Change Proposal No. 1 – Revision 2 on November 19, 2003 with formal Change Order to follow.
- Haskell resubmitted Change Proposal No. 1 – Revision 3 on March 2, 2004 for signature.

<table>
<thead>
<tr>
<th>PCO</th>
<th>Description</th>
<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>Trailer Park Village</td>
<td>9/05/03</td>
<td>$2,555,882</td>
</tr>
<tr>
<td>01R1</td>
<td>Trailer Park Village</td>
<td>9/16/03</td>
<td>$2,528,423</td>
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<tr>
<td>01R1B</td>
<td>Trailer Park Village</td>
<td>9/16/03</td>
<td>$2,933,694</td>
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<td>01R1C</td>
<td>Trailer Park Village</td>
<td>9/16/03</td>
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<td>01R2</td>
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<td>01R3</td>
<td>Trailer Park Village</td>
<td>3/02/04</td>
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Payment Status

The Current Payment Status is as Follows:

<table>
<thead>
<tr>
<th>Month Invoiced</th>
<th>Invoice Amount</th>
<th>Date Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 2003</td>
<td>$136,698.33</td>
<td>1-16-04</td>
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<tr>
<td>November 2003</td>
<td>$48,600.00</td>
<td>2-13-04</td>
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<tr>
<td>December 2003</td>
<td>$18,730.35</td>
<td>2-13-04</td>
</tr>
<tr>
<td>January 2004</td>
<td>$49,994.10</td>
<td>3-15-04</td>
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<tr>
<td>February 2004-01</td>
<td>$73,089.28</td>
<td>4-21-04</td>
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<tr>
<td>February 2004-02</td>
<td>$41,248.80</td>
<td>4-21-04</td>
</tr>
<tr>
<td>March 2004</td>
<td>$33,191.16</td>
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<tr>
<td>April 2004-01</td>
<td>$41,021.49</td>
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</tr>
<tr>
<td>April 2004-02</td>
<td>$6,750.00</td>
<td>5-24-04</td>
</tr>
<tr>
<td>May 2004-01</td>
<td>$163,559.31</td>
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<tr>
<td>May 2004-02</td>
<td>$14,098.40</td>
<td>6-22-04</td>
</tr>
<tr>
<td>EVENT</td>
<td>ORIGINAL SCHEDULE</td>
<td>UPDATED SCHEDULE</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Notice to Proceed</td>
<td>June 6, 2003</td>
<td>July 8, 2003</td>
</tr>
<tr>
<td>Kick-off Meeting</td>
<td>June 23, 2003</td>
<td>August 18, 2003</td>
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<tr>
<td>Issue 60% Design Develop. Submittal</td>
<td>October 13, 2003</td>
<td>April 16, 2004</td>
</tr>
<tr>
<td>Issue Final Design Documents</td>
<td>December 22, 2003</td>
<td>August 19, 2004</td>
</tr>
<tr>
<td>Complete Project Permitting</td>
<td>January 5, 2003</td>
<td>August 25, 2004</td>
</tr>
<tr>
<td>Procurement (PO-S/C)</td>
<td>October 27, 2003</td>
<td>Dec. 15, 2004</td>
</tr>
<tr>
<td>Begin Constr. of Collection System</td>
<td>November 10, 2003</td>
<td>August 9, 2004</td>
</tr>
<tr>
<td>Begin Constr. of WWTP</td>
<td>January 5, 2004</td>
<td>August 25, 2004</td>
</tr>
<tr>
<td>Start-up/Operational Testing</td>
<td>October 25, 2004</td>
<td>July 13, 2005</td>
</tr>
<tr>
<td>Substantial Completion</td>
<td>February 7, 2005</td>
<td>Nov. 7, 2005</td>
</tr>
<tr>
<td>Project Complete</td>
<td>March 7, 2005</td>
<td>Dec. 5, 2005</td>
</tr>
</tbody>
</table>
No jobsite photographs available.
July 20, 2004

Re: Wastewater Management System For
The Key Largo Trailer Village Area
Key Largo, Florida
Issue No. 01-038 - Addition of
Second Floor on Admin Building

Mr. Chuck Fishburn
KLWTD General Manager
Post Office Box 491
Key Largo, Florida 33037

Dear Mr. Fishburn:

In response to the Resolution of Dissatisfaction prepared by KLWTD Commissioner Tobin, Brown and Caldwell has prepared the attached letter. Please distribute this document to the Board at the upcoming meeting, as Brown and Caldwell would like their position known during the discussion of this item.

Please note that the e-mail forwarded to Mr. Castle, that included Brown and Caldwell’s preliminary pricing was provided solely to demonstrate activity on this action item and not a formal price submission for design work. We hope that in the future, the Board would feel compelled to discuss concerns of this nature in lieu of preparing a formal document with such damaging implications.

Should you have any questions or require further information, please do not hesitate to contact me at (904) 357-4225.

Sincerely,

[Signature]

Peter M. Kinsley
Division Leader

Enclosures

cc: Stuart Oppenheim, Brown and Caldwell
Issue No. 01-038
July 20, 2004

Key Largo Wastewater Treatment District Board
Key Largo, Florida

Subject: Resolution Expressing Dissatisfaction With Brown and Caldwell Engineers

Dear Boardmembers:

I was surprised and disappointed to see the proposed resolution expressing dissatisfaction with Brown and Caldwell. This resolution was particularly surprising in light of the fact that our firm has worked extremely hard to protect the interests of the Board. However, by the nature of the resolution, we do feel an obligation to provide a written response.

It should be understood that Brown and Caldwell was requested to provide a rough estimate of the cost to redesign the Administration Building to add a second story. A formal proposal was not submitted and thus had not been thoroughly reviewed and value engineered. The normal process is to sit down and negotiate a price that is fair and reasonable for both sides. This dialogue did not occur, which has confused the situation and led to misunderstanding and apparent hard feelings.

On the other hand, it must be understood that there are a number of complexities that are introduced to a building design when a second story is added. Since the original design did not plan for a second story, the entire structure would need to be redesigned. In particular:

- Revise the plan layout for access to a second floor. The site is already tight, so civil and mechanical changes will likely be required for the new layout and the increased number of parking spots.
- Redesign the entire building foundation. The higher building profile will change the structure’s moments, in particular, hurricane winds have a dramatic impact upon the design.
- Redesign the grade beams on piles.
- Redesign the first floor space, which must now accommodate access to a second floor. In terms of ADA requirements, will an elevator be required? This issue must be researched and resolved.
- Redesign masonry due to increased wind and gravity loads.
- Design second floor structural system, adding details as required.
- Design second floor masonry, adding details as required.
- Redesign roof system for change in loading due to increased height of building.
- Design plan layout for second floor (changes in partitions, etc. that are currently masonry only on the first floor). Conduct space planning and associated layout iterations.
- Design stairs and/or elevator for access to second floor (add elevator pit, if required).
- Redesign of elevations of the building.
- Redesign all architectural elements of the building, if visibility of the structure becomes an issue. This could affect roof system and building appearance.
- Add windows, as required for second floor. Add other miscellaneous architectural details.
- Modify entire HVAC system. Likely require a central rather than a split system.
- Consider fire protection system. This depends upon building/fire marshal interpretation of the building's occupancy.
- Possible redesign of plumbing system.
- Permitting for a two story building will require resubmittal to Monroe County.
- Review of building design with District and its representatives.

As can be seen, there is a significant amount of work and effort that must take place. We feel that putting forward a resolution is unfair and does not truly represent a clear picture of the entire issue. Brown and Caldwell recognizes the need to provide the Board with a fair and reasonable cost for any service that we provide. We are available to work with the Board and its representatives to arrive at a price that is fair to all parties. I trust that the information provided in this letter gives the Board a better understanding of the work.

If there are questions, I am available to discuss this issue at any time.

Very truly yours,

Stuart Oppenheim, PE