

KEY LARGO WASTEWATER TREATMENT DISTRICT TRANSITION MEETING AGENDA



June 11, 2013 4:00 PM
98880 Overseas Hwy
Key Largo, FL 33037

Robert Majeska
Andrew Tobin
Norman Higgins
Steve Gibbs
David Asdourian

Chair
Vice Chair
Secretary-Treasurer
Commissioner
Commissioner

.....
Margaret Blank
Ray Giglio
Carol Walker

General Manager
General Counsel
District Clerk

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the KLWTD Board, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate in the meeting should contact the District Clerk at 305 451-4019 at least 48 hours in advance to request accommodations.

- A. CALL TO ORDER - PLEASE MUTE CELL PHONES**
- B. PLEDGE OF ALLEGIANCE**
- C. ROLL CALL**
- D. APPROVAL OF AGENDA WITH ANY ADDITIONS, DELETIONS, OR CONTINUANCES**
- E. PUBLIC COMMENT**
Individual comments have a 3 minute limit; Organizations have a 5 minute limit. General comment (non-agenda items) will be heard at this time; Specific agenda items will be heard right before the item. Speaker cards must be turned in before the meeting starts.

F. ACTION ITEMS **TAB 1**
1. Motion to Reconsider Approval of Additional Compensation to Attorney

G. DISCUSSION ITEMS **TAB 2**
2. Hold Harmless Agreement
3. Grievance Policy
4. Education Policy
5. RESOLUTION NUMBER XX-YY-ZZ

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT RETIRING RESOLUTION NO. 16-10-10 REGARDING MONTHLY RATES AND CHARGES FOR WASTEWATER COLLECTION, TRANSMISSION, TREATMENT, AND DISPOSAL AND AMENDING THE KEY LARGO WASTEWATER TREATMENT DISTRICT RULES AND REGULATIONS; AND PROVIDING AN EFFECTIVE DATE

H. COMMISSIONER'S ROUNDTABLE

I. ADJOURNMENT

TAB 1

**KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form**

Meeting Date: June 11, 2013

Agenda Item No. /

PUBLIC HEARING

RESOLUTION

DISCUSSION

BID/RFP AWARD

ACTION ITEM

CONSENT AGENDA

Other:

SUBJECT: Legal Counsel Compensation

RECOMMENDED MOTION/ACTION:

Approved by General Manager *mslark*

Date: 6/7/2013

Originating Department: Commissioner Tobin	Costs: \$ Funding Source:	Attachments:
Department Review: <input type="checkbox"/> District Counsel _____ <input checked="" type="checkbox"/> General Manager <u><i>MS</i></u> <input type="checkbox"/> Finance _____	<input type="checkbox"/> Engineering _____ <input type="checkbox"/> Clerk _____ <input type="checkbox"/> [Operations] _____	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required

Summary Explanation/Background: Commissioner Tobin would like to amend the motion for Legal Counsel Compensation as follows:

Approval of \$500 per month increase (effective Oct. 1) is contingent on Manager and Attorney's analysis of a) whether some of the Attorney's time/responsibilities can be reduced, i.e. attending weekly staff meetings, etc; and b) whether access to the Attorney by staff and commissioners can be reduced thereby increasing Attorney's hourly rate. Manager and Attorney to report findings at first meeting in September.

Resulting Board Action:

Approved

Tabled

Disapproved

Recommendation Revised

TAB 2

**KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form**

Meeting Date: June 11, 2013

Agenda Item No. 2

- | | |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> RESOLUTION |
| <input checked="" type="checkbox"/> DISCUSSION | <input type="checkbox"/> BID/RFP AWARD |
| <input type="checkbox"/> ACTION ITEM | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: | |

SUBJECT: Hold Harmless Agreement/Grinder Pumps

RECOMMENDED MOTION/ACTION: Discussion of requirements in the Hold Harmless Agreement

Approved by General Manager 
Date: 6/7/2013

Originating Department: General Manager	Costs: \$ Funding Source:	Attachments: Memo
Department Review: <input type="checkbox"/> District Counsel _____ <input checked="" type="checkbox"/> General Manager <u></u> <input type="checkbox"/> Finance _____	<input type="checkbox"/> Engineering _____ <input type="checkbox"/> Clerk _____ <input type="checkbox"/> [Operations] _____	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required

Summary Explanation/Background:

Resulting Board Action:

- Approved Tabled Disapproved Recommendation Revised

Memo

To: KLWTD Board
From: Margaret Blank, PE
CC: Ray Giglio
Date: June 7, 2013
Re: Grinder Pump Project Background and Recommendations

Introduction

It is clear from the article printed in the May 29th *Free Press* (See **Attachment A**), that there continues to be a misunderstanding when it comes to the grinder pump project. The purpose of this memorandum is to give some history and background; and also to explain the “hold harmless” issue in a comprehensive manner.

History

In 2009, several property owners on C905 noticed that they were being charged a Monroe County municipal service taxing unit (MSTU) to support the development of the District; yet the District had no plans to serve this area. Through their pleas to the board, it became clear that most of the residents on C905 wanted the District to provide central sewer service.

However, a major obstacle for the District was the feasibility and the expense of the project. An extension of the vacuum system was not technically feasible because of the distance from the nearest vacuum station and the losses on the existing branch. A gravity system would have been extremely expensive, and finding a location for the lift station would be difficult. That narrowed it down to a low pressure system.

Although a low pressure system is the most feasible of the three choices, it necessitates going onto private property; a concept that the District has historically been opposed to. It is possible, however, to install a low pressure system and place the grinder pumps in the right-of-way and, in fact, that is exactly how Marathon did it. Unfortunately, there are several issues with doing it that way. First, there has to be enough space in the right-of-way. In the case of C905, there is a lot of vegetation in the right-of-way as well as the buried utilities found in this area. Secondly, to make it worthwhile the District would need to serve multiple homes with one station which would have to meet FDEP requirements, such as the top elevation would have to meet the 25-year flood elevation, and the electrical panel would have to meet the 100-year flood elevation. As Marathon discovered, this can cause an obstacle in the right-of-way and some residents may also find it to be an eye sore. For these and other

reasons, the District finally decided to go against their previous policy of going onto personal property to install the grinder pumps.

The next issue then became, because of the expense of the project, the District struggled with how much to assess. In the end, after a thorough evaluation of costs and a review with then District counsel, Tom Dillon, to determine equitability, staff proposed assessing an additional \$3,300 for the grinder pump equipment, small diameter force main and installation; which is near the average cost of a typical gravity tie-in. Upon review and discussion, the Board approved this amount.

Current Issues

Most of the affected home-owners are enthusiastic supporters of the project: 91 of 146 have signed a notice of intent to participate and 65 have executed the currently adopted easement agreement. There remains however, a small group of homeowners who continue to express dissatisfaction with the terms of the easement agreement. The problem specifically is the "hold harmless" language in the easement and is discussed below.

Hold harmless language is not "customary" in an easement. Staff respectfully submits that this language *is* customary in District easements. **See Attachment B.** The District has installed facilities within easements at several locations that benefit the District as a whole (all District customers) and not just a particular property owner. A typical utility easement is for a simple pipe or conduit. These unobtrusive facilities require little to no maintenance and do not present any substantial liability risk. A vacuum station, on the other hand, is expensive and time-consuming to design and build. Once built, it requires a substantial amount of regular maintenance (weekly visit at minimum) and a continuing District presence within the easement. For that reason, the District (the Grantee) agreed to hold the property owner (the Grantor) harmless in that particular situation.

In the case of the "unique properties", the District is providing facilities for the sole benefit of the property owner. The surest way for the District to avoid unnecessary liability is to not provide the facilities at all, which, by the way, is still an option. In exchange for the additional costs associated with this project, the District is asking the property owners to sign an easement containing "hold harmless" language. In other words, the District is simply asking the property owner to do what the District has itself done with other entities.

The District has shown a willingness to modify the "hold harmless" language, and continues to solicit alternative language from the homeowners who are dissatisfied with the language and their representatives but have to date received no such alternative language; only the demand to remove the language altogether. District Counsel has persisted in the face of this intractability, and has been able to determine, with substantial effort, that the problem lies with the generalized nature of the "hold harmless" language, and a general misunderstanding of the limits of the "hold harmless".

Conclusion and Recommendation

Although it has been said many times, it bears repeating: the “Unique Property” program is a voluntary program. Property owners may opt out at any time prior to installation; accordingly, so may the District. At the time the program was initially proposed, the District felt that the benefit to the property owners outweighed the expense and difficulty of the project. Time and experience has shown that the legal costs of this project may make it altogether untenable in the long run. The District has spent conservatively \$10,000 to date on the “hold harmless” issue alone. If legal fees continue at this pace, we will be unable to afford to continue with the project. This experience is illustrative of the pitfalls of installing facilities on private property and the unforeseen expenses that can occur.

At this point, because of the positive response of the vast majority of property owners involved, it is recommended that the District continue the program. However, we will need to closely monitor and track the amount of resources expended. If costs continue, the District should consider either raising rates for “unique properties” or discontinuing the program altogether.

Respectfully Submitted,

Margaret Blank, P.E.
General Manager

Published on KeysNews.com (<http://keysnews.com>)

Dispute adding up for district

Wednesday, May 29, 2013

BY JOSH GORE Free Press Staff

jgore@keysnews.com

KEY LARGO – The Key Largo Wastewater Treatment District has already spent about \$10,000 on grinder pump installation at Coral Coast before one grinder pump has been installed, officials said at a meeting last week.

A legal dispute over who is liable for damages if an accident occurs on a homeowners property while the district installs or maintains a grinder pump is the reason for the hefty pricetag before any work has begun.

Grinder pumps are to be used by the district for about 150 homeowners who live on so-called unique properties. Properties are deemed unique because their location or typography precludes regular sewer service.

For the last few months, a dispute has festered between the mile marker 97 neighborhood, which includes just over a dozen homes, and the district. The wastewater authority wants the neighborhood to sign easement agreements that would "hold the district harmless" from any litigation should a district-related accident take place on a homeowner's property.

The agreement is the same document sent to all of owners of unique properties.

But Coral Coast resident John Hammerstrom says this type of agreement puts an unfair burden on the homeowner.

Since joining the district last fall, board member Steve Gibbs said he considers this to be "the most complicated and morally challenging issue" he has faced.

"No matter who gets harmed on the property ... the homeowner will be held responsible," attorney Nick Mulick argued last week on behalf of the neighborhood.

Mulick said the responsible party should be held accountable in the event of an accident. Last week was Mulick's second time addressing the district on the matter, and he is expected to again be present at the board's June 18 meeting.

"We're offering to do something for less money and we're asking for no lawsuits," chairman Robby Majeska said in explanation of the agreement language. Majeska said the board should consider changing the resolution to free the district from any maintenance one year after installation.

As for the hold-harmless language, board member Andy Tobin acknowledged the wording was bit too strong in protecting the district.

"There's one clause in there that says we're not responsible for our own negligence," he said. "That's going a little too far."

Board members Norm Higgins and David Asdourian agree with Mulick that fault should lie with the responsible party.

"To pick on the people who have grinder pumps going in, I don't feel is right," Asdourian said. "The pendulum swung so far toward the far end of trying to protect ourselves, we've actually alienated a small group of people and that's not something we want to do."

Mulick is to meet with Ray Giglio, the sewer district's attorney, to find a way to make the language agreeable to both parties. Once the language is changed, it will apply to all unique properties.

jgore@keysnews.com

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KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: June 11, 2013

Agenda Item No. **3**

- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING
<input checked="" type="checkbox"/> DISCUSSION
<input type="checkbox"/> ACTION ITEM
<input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION
<input type="checkbox"/> BID/RFP AWARD
<input type="checkbox"/> CONSENT AGENDA |
|--|--|

SUBJECT: Grievance Policy.

RECOMMENDED MOTION/ACTION: Discussion

Approved by General Manager *MBlast*
 Date: 6/7/2013

Originating Department: Legal	Costs: \$ _____ Funding Source: _____	Attachments: Draft Policy
Department Review: <input type="checkbox"/> District Counsel _____ <input checked="" type="checkbox"/> General Manager <u><i>MB</i></u> <input type="checkbox"/> Finance _____	<input type="checkbox"/> Engineering _____ <input type="checkbox"/> Clerk _____ <input type="checkbox"/> [Operations] _____	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required

Summary Explanation/Background:

At the last BOC meeting, there was a discussion about the changes that had been made to the original Grievance Policy Memo (#01), which had been sent to the District by our labor attorney, Dale Morgado.

I have taken the liberty of attaching for your review a copy of Dale's original Grievance Policy Memo, along with a copy of my latest Draft Grievance Policy (#35). Please note that this is the same version that was recently presented to the board, but that this copy includes my "comments."

Resulting Board Action:

- Approved
 Tabled
 Disapproved
 Recommendation Revised

TO: MARGARET BLANCK
FROM: DALE MORGADO
RE: WASTERWATER DISTRICT: Grievance Policy
DATE: October 18, 2012

I. Issue Presented

The contents of this memorandum contain a grievance policy for Wastewater District (“Employer” or “Company”) that can be used for all general complaints or issues.

II. Outline & Discussion

A. Introduction:

The grievance procedure is intended as the tool by which a member of Employer’s staff may formally have a grievance, regarding any condition of their employment, heard by the management of the Company. The aggrieved employee has the right to representation by herself, an attorney, a co-worker, a friend or family member, or a union representative.

In the event of a member of staff wishing to raise a grievance, it is preferable for the grievance to be satisfactorily resolved as close to the individual and their line manager as possible. It is understood however that this is not always possible and that a formal procedure is required to ensure the swift and fair resolution of matters which aggrieve the Company’s employees.

Time scales have been fixed to ensure that grievances are dealt with quickly, however these may be extended if it is agreed upon by both parties.

This procedure is not intended to deal with:

Insert here any specific issues that may require their own procedures

B. Procedure

Stage 1: Informal and Formal Grievances

An employee who has a grievance, should raise the matter with his line manager supervisor immediately either verbally or in writing. If the matter itself concerns the employees’ immediate manager, then the grievance should be taken to their immediate superior.

If the manager or superior is unable to resolve the matter at that time then a **formal written grievance form** should be submitted by the employee to the manager/superior (see appendix 1). This form should be as detailed as possible, including the names of all individuals involved and any witnesses. These forms shall be available at [desk location] if you wish to use such forms.

The manager should then respond within **3 working days** (i.e. the managers normal working days) to the grievance unless an extended period of time is agreed upon by both parties. The response will give a full written explanation of the manager's decision and to whom the employee should appeal the decision if still aggrieved. If during this time the employee feels retaliated against for filing her grievance, they will file another grievance form indicating the retaliation to the manager (or manager's superior).

Stage 2: Appeal of Manager/Supervisor's Decision

In most instances the Company would expect the managers'/supervisor's decision to be final and for the matter to come to a close. However, in some circumstances the employee may remain aggrieved and can appeal against the decision of the manager concerned.

The appeal, to the manager next in line, must be made within **10 working days** of the original response to the employees' grievance. The appeal must be in writing (see appendix 2) and contain a copy of the original formal Grievance form. This manager will attempt to resolve the grievance. A formal response and full explanation will be given in writing, and will the name of the person to whom they can appeal if still aggrieved, **within 7 days**.

Where the 'next in line' manager at this stage is the Director with responsibility for the employees function, then the grievance should immediately progress to stage 3.

Stage 3: Further Appeal

If the employee remains aggrieved there will be a final level of appeal to the Director responsible for the employees function. This appeal must be made in writing (see appendix 3), enclosing a copy of the original Formal Grievance form, to the Director within ten working days of receipt of the Stage 2 response. This Director will arrange and hear the appeal with another management representative (not the subject of any grievances or related to the grievances) and respond formally with a full explanation **within 20 working days**.

Where a grievance is raised against a Director then the grievance will be heard by the Chief Executive.

There is no further right of appeal. Where however **both** parties agree in writing that there would be some merit in referring the matter to a third party for advice, conciliation or arbitration, arrangements will then be made to find a mutually acceptable third party.

C. Other Key Provisions of Plan

i. Mediation

An independent third party or mediator can sometimes help resolve grievance issues before it is necessary to invoke the formal procedure. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Company will seek to identify employees who have been trained and accredited by an external mediation service who can act as internal mediators in addition to their day jobs. When this is not appropriate the Company will source an external mediation provider. Mediators will work individually or in pairs as co-mediators.

There are no hard-and-fast rules for when mediation is appropriate but it can be used:

- for conflict involving colleagues of a similar job or grade, or between a manager and her staff
- at any stage in the conflict as long as any ongoing formal procedures are put in abeyance
- to rebuild relationships after a formal dispute has been resolved
- to address a range of issues, including relationship breakdown, personality clashes, communication problems and bullying and harassment.

Mediation is not part of Company's formal grievance procedure. However if both parties agree in writing to mediation, then the grievance procedure can be suspended in an attempt to resolve the grievance through that route. If mediation is not successful, then the grievance procedure can be re-commenced.

ii. No Retaliation

Company prohibits any form of discipline, reprisal, intimidation or retaliation for reporting incidents of workplace violence of any kind, pursuing a workplace violence complaint or cooperating in related investigations.

Company is committed to enforcing this policy against all forms of workplace violence. However, the effectiveness of our efforts depends largely on employees telling us about all incidents of workplace violence, including threats. Employees who witness any workplace violence should report it immediately. In addition, if an employee feels that they or someone else may have been subjected to conduct that violates this policy, they should report it immediately. If employees do not report workplace violence incidents, Company may not become aware of a possible violation of this policy and may not be able to take appropriate corrective action.

iii. Employees Covered under a Collective Bargaining Agreement

The employment details set out in this policy work in conjunction with, and do not replace, amend or supplement any terms or conditions of employment stated in any collective bargaining agreement that a union has with Company. Wherever employment details in this policy differ from the terms expressed in your union's collective bargaining agreement with Company, you should refer to the specific terms of the collective bargaining agreement, which will control.

iv. Conduct Not Prohibited By Grievance Policy

This policy is not intended to preclude or dissuade employees from engaging in legally protected activities/activities protected by state or federal law, including the National Labor Relations Act, such as discussing wages, benefits or terms and conditions of employment, forming, joining or supporting labor unions, bargaining collectively through representatives of their choosing, raising complaints about working conditions for their and their fellow employees' mutual aid or protection or legally required activities.

v. Confidentiality of Investigation

Company cannot promise complete confidentiality regarding an employees' grievance because certain people will need to be made aware of the concern to address it. However, Company respects the complaining employee's privacy and Company will make its best good faith efforts to only share information on a need-to-know basis.

vi. Employee Recognition of Procedure

I [EMPLOYEE NAME] acknowledge that on [DATE], I received a copy of Company's Internal Grievance Policy and that I read it, understood it and agree to comply with it. I understand that Company has the maximum discretion permitted by law to interpret, administer, change, modify or delete this policy at any time. Any modification of the policy will be either sent to each employee or posted in a conspicuous location at Company's place of business. No statement or representation by a supervisor or manager or any other employee, whether oral or written, can supplement or modify this policy. Changes can only be made if approved in writing by [POSITION]. I also understand that any delay or failure by Company to enforce any work policy or rule will not constitute a waiver of its right to do so in the future. I understand that neither this policy nor any other communication by a management representative or any other employee, whether oral or written, is intended to in any way create a contract of employment. I understand that, unless I have a written employment agreement signed by an authorized representative of Company, **I am employed at will and this policy does not modify my at-will employment status.** If I have a written employment agreement signed by an authorized by Company's representative and this policy conflicts with the terms of my employment agreement, I understand that the terms of my employment agreement will prevail.

III. CONCLUSION

The preceding provides a generalized grievance procedure that takes into consideration rights of appeal, the fact that in some circumstances an employee's direct supervisor may not be the appropriate person a complaint should be issued to, and the fact that mediation may be an additional tool used to settle company-wide disputes. As stated herein, an employer is free to create a more specialized procedure for certain types of grievances that may require increased sensitivity, such as complaints of sexual harassment or complaints of physical danger in the workplace. However, that is up to the specific employer and the general procedure outlined above also provides a base to address these types of complains as well.

[APPENDIX A]

To:

From:

Dept:

Date:

Immediate Superior:

Dear

I wish to take a formal grievance out against:

in line with the Company Grievance Procedure. The details of my grievance are shown below [attach additional pages if necessary] :

Yours sincerely,

(Manager should respond to this formal written grievance within 3 working days unless an extended period for response is mutually agreed)

[APPENDIX B]

To

From

Dept

Date

Immediate Superior

Dear

On (within 10 days of the response to the initial formal grievance) my grievance against was heard by

_____.

I am not satisfied with the outcome of this meeting and would like to appeal to yourself for a further hearing of my grievance, in line with the Company Grievance Procedure.

I enclose a copy of the original letter regarding this matter and other correspondence and information related to it.

Yours sincerely

(Manager should respond to this formal written grievance within 7 days unless an extended period for response is mutually agreed)

[APPENDIX C]

To (Director):

From:

Dept:

Date:

Immediate Superior:

Dear

On (within 10 days of the response to the second stage of the formal grievance) I appealed to

against the decision made at my initial grievance against

I remain dissatisfied with the outcome of this meeting and would like to appeal to you for a further hearing of my grievance, in line with the Company Grievance Procedure.

I enclose a copy of the original letter regarding this matter and other correspondence and information related to it.

Yours sincerely

(Director should respond to this formal written grievance within 20 working days unless an extended period for response is mutually agreed)

KEY LARGO WASTEWATER TREATMENT DISTRICT GRIEVANCE PROCEDURE

Section A. Introduction

These procedures are intended to be the mechanism by which employees of the Key Largo Wastewater Treatment District ("District") may have a grievance formally addressed by the management of the District.

A full-time, regular Employee ("Employee" or "Employees") of the District must utilize the procedures contained in "*Section B.- Procedures for Full-Time, Regular Employees.*" However, the procedures contained in *Section B* DO NOT apply to full-time, regular Employees of the District who have been terminated. All Employees of the District are "at-will" employees and as such, they may be terminated at any time for any reason or no for reason. Therefore, the termination of a full-time, regular Employee is not grievable and is not subject to these grievance procedures.

A member of the Senior Staff ("Senior Staff" or "Senior Staffer") of the District who has been terminated, suspended, demoted, or given a reduction in pay, shall have the right to appeal that change in status only in accordance with "*Section C.—Procedures for Senior Staff.*"

Throughout these procedures, time periods have been fixed to ensure that grievances are treated with the highest level of urgency and are dealt with quickly. These time periods may be extended if both the aggrieved party and the District consent to the extension. If key members of grievance process are unavailable, such consent shall not be unreasonably withheld.

However, unless both parties have agreed to an extension, the failure of the aggrieved party to follow the time limits contained herein will result in an automatic, final, and binding denial of that party's grievance. The failure of the District to follow the time limits contained herein, at any Stage, will be deemed a denial of that Stage in the grievance procedure. In such event, the aggrieved party may proceed to the next stage or step, if one is available.

Comment [RWG1]: How about the HR Coordinator. Perhaps she should go to her immediate supervisor and then to the General Manager. Ray

Comment [RWG2]: Do we want to expand this to include "Senior Staff shall have the right to appeal any decision by the General Manager that substantially affects the Senior Staff member's employment, duties, status, or benefits.?" Ray

Section B. Procedures for Regular Employees

This is the Procedure by which full-time, regular Employees of the District may have a grievance regarding any condition their employment, formally heard by the management of the District. If an aggrieved Employee wishes to file a formal grievance, that Employee must utilize the procedure outlined in this section.

When an Employee feels aggrieved by some condition of his or her employment, it is always preferable for the Employee to bring the matter to the attention of his or her immediate supervisor and, through informal discussion, for the Employee's complaint to be quickly addressed to the mutual satisfaction of the parties. However, as a practical matter, not all grievances can be resolved through informal procedures. Therefore, the formal grievance procedure outlined herein is intended to ensure that matters in which an Employee may feel aggrieved can be swiftly and fairly resolved.

At all stages of this procedure, aggrieved Employees shall have the right to represent themselves or to be represented by an attorney, a co-worker, a friend, a family member, or a union representative.

Stage-1: Informal Grievance to Immediate Supervisor

Employees who feel aggrieved regarding any condition their employment, should raise the matter with their immediate supervisor, either orally or in writing, indicating the nature of the complaint, the District policies involved, and the desired resolution. This should be done as soon as possible and must be done within **ten (10) working days** of the incident to be grieved.

During this Stage-1 procedure, the Employee and his or her immediate supervisor should engage in informal discussions for the purpose of resolving the issue in the simplest and most direct manner. The aggrieved Employee's immediate supervisor must reach a decision and communicate that decision, orally or in writing, to the aggrieved Employee within **ten (10) working days** from the date the matter was raised with the supervisor. Supervisors are not empowered to make policy decisions.

Comment [RWG3]: I used 10 working days throughout this procedure. This is a number I picked arbitrarily. It could be more or less. Ray

Stage-2: Filing a Formal Written Grievance

If the matter is not satisfactorily resolved by the informal procedure in Stage-1, the aggrieved Employee may commence the formal grievance process by filing

a Formal Written Grievance Form (the "Grievance Form") with the District's Human Resources Coordinator (the "HR Coordinator"). This Grievance Form must be filed within **ten (10) working days** of the oral or written Stage-1 response of the Employee's immediate supervisor.

All formal grievances must utilize the Grievance Form shown in *Appendix A*. The Grievance Form must be signed by the aggrieved Employee and should contain as much detail as possible. If more space is needed, additional pages may be attached. The Grievance Form must include the names of all individuals involved, the names of any witnesses, and any written response to the Employee's Stage-1 informal grievance from the Employee's immediate supervisor. Once reduced to writing, the text of the grievance shall remain unaltered as the grievance progresses through any additional stages.

Grievance Forms shall be available from the Human Resources Coordinator for the use of any Employee who wishes to file a grievance. Employees filing a formal grievance are encouraged to keep copies of all documents, as they may be needed later in the grievance process.

Before the Grievance Form has been filed, or as soon as is practicable after it has been filed, the HR Coordinator should meet with the aggrieved Employee to discuss the grievance procedure and to answer any questions the Employee might have about the grievance procedure. The HR Coordinator should verify that the Employee has signed the Grievance Form and has included all necessary information and documentation. In addition, the HR Coordinator should advise the Employee that:

- The HR Coordinator is not empowered to make any decision with respect to the grievance or to make any policy decisions.
- The role of the HR Coordinator is to document all steps in the grievance procedure, to facilitate meetings between the Employee and the management of the District, and to help guide the Employee through the grievance procedure.
- The Grievance Form and any other documentation submitted will become public records and may be subject to inspection by third parties.
- Any discussions with the HR Coordinator may be summarized and reduced to a writing that will become a public record and may be subject to inspection by third parties.
- There are certain types of information that are confidential and/or exempt from the Public Records Law; and such exempt or confidential information will not be released or be subject to inspection by third persons.

Stage-3: Hearing with Employee's Department Head

Within **ten (10) working days** after receipt of the Grievance Form, the HR Coordinator shall schedule a hearing of the Employee's grievance with the Employee and the Employee's Department Head. At that hearing, the HR Coordinator should attempt to facilitate a resolution of the issue(s) concerning the Employee's grievance. The Employee shall be permitted to introduce relevant evidence, to give testimony, and to call witnesses at the *Stage-3* hearing.

At the conclusion of the *Stage-3* hearing, the Employee's Department Head shall respond to the Employee's grievance. The response should give a full explanation of the Department Head's decision with respect to the grievance. The Department Head's decision should be summarized and reduced to writing by the HR Coordinator. Copies of that written summary should be given to the Employee and should be included in the grievance file.

Stage-4: Election of Mediation or Final Appeal to General Manager

The District anticipates that in most instances, the *Stage-3* decision of the Employee's Department Head would be final and that the matter would come to a close. However, at the conclusion of the *Stage-3* hearing, after the Employee's Department Head has made a decision, the aggrieved Employee shall be given the option of electing ONE of the following courses of action:

- 1) Accept the *Stage-3* decision of the Employee's Department Head and forgo any further proceedings with respect to the grievance. In this case, the matter would come to an end.
- 2) Request a mediation hearing to be presided over by an independent third party or by a certified mediator.
- 3) Make a Final Appeal of the *Stage-3* decision of the Employee's Department Head to the General Manager, in accordance with *Stage-6* of the Grievance Procedure.

The Employee shall be advised that he or she may choose only ONE of the above options. The option elected by the Employee shall be reduced to writing by the HR Coordinator and signed by the Employee. A Copy of that writing should be given to the Employee and should be included in the grievance file.

Comment [RWG4]: I originally considered setting this up so that the first hearing would be with the employee's immediate supervisor. But, as the employee has already discussed the matter with his/her immediate supervisor under stage-1 above, I think that it would be unproductive to have a hearing with that same supervisor. So, I have revised the procedure such that the first formal hearing is with the Department head.

However, instead of the Department Head (or I suppose in addition to the Department Head), this hearing could be with the Operations Manager for employees at the Plant and Collections, and before the Head of Administration for Administrative Employees.
Ray

Comment [RWG5]: , Do we want to limit this to "certified" mediators? Ray

Stage-5: Mediation

If, at the conclusion of the *Stage-3* hearing, the Employee elects to submit his or her formal grievance to mediation, the District will seek to identify Employees who have been trained and accredited by an external mediation service who can act as internal mediators in addition to their day jobs. When this is not appropriate the District will source an external mediation provider.

An independent third party or mediator can sometimes help resolve Grievance issues to the satisfaction of all parties. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other is wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

If mediation is successful, the resolution agreed to by the parties should be summarized and reduced to writing by the HR Coordinator. The written summary should be signed by both parties and copies should be given to the Employee and included in the grievance file. The matter would then come to a close.

If mediation is not successful, the aggrieved Employee shall, at the conclusion of the mediation hearing, be given the option of electing ONE of the following courses of action:

- 1) Accept the *Stage-3* decision of the Employee's Department Head and forgo any further proceedings with respect to the grievance. In this case, the matter would come to an end.
- 2) Make a Final Appeal of the *Stage-3* decision of the Employee's Department Head to the General Manager, in accordance with Stage-6 of this Grievance Procedure.

Stage-6: Final Appeal to General Manager

If, at the conclusion of the *Stage-5* mediation proceedings, the Employee continues to feel aggrieved, he or she shall have the option of making a Final Appeal to the General Manager in accordance with this section.

Any such Final Appeal shall take the form of a meeting to be held within **ten (10) working days** of the Employee's request for a Final Appeal. This meeting shall be attended by the Employee, by the General Manager, and by another

Comment [RWG6]: Again, do we want to limit this to "trained and accredited" mediators? Ray

Comment [RWG7]: Who pays? How is mediator chosen? I have not addressed any of these issues. Ray

Comment [RWG8]: How about the HR Coordinator? That way the HR Coordinator could reduce GM's decision to writing. Do we want District Counsel or Labor Counsel there? Do we want to allow the Employee to have someone there? Ray

management representative, who is not the subject of any grievances, who is not related to the grievance, and who shall be selected by the General Manager.

At the conclusion of that meeting, the General Manager shall give the Employee a decision. The decision of General Manager shall be final and the Employee shall have no further right of appeal.

If an Employee has been suspended, discharged, received a reduction in pay or demoted, the filing a grievance shall not stay the effect of any such change in status. If, at the conclusion of the grievance procedure, the District rules in the Employee's favor, the Employee may, at the sole discretion of the General Manager, receive any back pay deemed to be due.

Where the General Manager is the subject of the grievance, or is materially related to or is involved in the grievance, or is the person to whom the Employee filing the grievance reports, then the Final Appeal shall go to the District Counsel, who shall act in the place and stead of the General Manager.

Comment [RWG9]: Do we want to say that the decision of the General Manager should be in writing.? Ray

Comment [RWG10]: Is this what we want? Ray

Section C. Procedures for Senior Staff

I. DEFINITION OF SENIOR STAFF

Senior Staff is defined as: the General Manager, the District Counsel, the District Clerk, the District Engineer, the Chief Financial Officer, the Finance Director, the Chief Information Officer, and the Plant Operations Manager.

Comment [RWG11]: Do we want to define Senior Staff here or in some other document such as the staffing and organizational chart? Ray

II. POLICY STATEMENT

Senior Staff have responsibilities and functions that require different policies and conditions governing their employment, termination, or change in status.

Senior Staffers who have been discharged, suspended, demoted, or given a reduction in pay, shall have the right to appeal that change in status only in accordance with the *GRIEVANCE PROCEDURE FOR SENIOR STAFF* described in section IV below.

Comment [RWG12]: Again, do we want to expand this to say "Senior Staff shall have the right to appeal any decision by the General Manager that substantially affects the Senior Staff member's employment, duties, status, or benefits.?" Ray

III. NOTIFICATION MEETING

Before any member of the Senior Staff is discharged, suspended, demoted, or given a reduction in pay, the General Manager shall hold a Notification Meeting with the District Counsel and the Chairperson of the District's Board of Commissioners or if the Chairperson is for any reason unavailable, another member of the Board designated to take the Chairperson's place.

At that meeting, the General Manager shall inform the other parties present of the proposed change in the employment status of the Senior Staffer and shall articulate the reasons for that action.

The General Manager shall not be required to obtain the approval or consent of any of the other parties present at the Notification Meeting, or of the Board of Commissioners, in order to make the proposed change in the employment status of the Senior Staffer.

If, in the sole discretion of the General Manager, it is not feasible or practicable to hold such a Notification Meeting prior to changing the employment status of the Senior Staffer, it shall not be necessary to do so. In such event, the Notification Meeting shall be held at the earliest opportunity.

IV. TERMINATION OF SENIOR STAFF

Members of the Senior Staff are "at-will" employees and as such, may be terminated at any time for any reason or for no reason. However, such termination is subject to the *GRIEVANCE PROCEDURE FOR SENIOR STAFF* described in Section IV. of this section.

Senior Staff receive at least thirty days notice of termination. When pay is given in lieu of notice, the maximum payment period is thirty days. A combination of notice and pay in lieu of notice may be appropriate at the District's discretion. In such an arrangement, severance pay may be contingent on the Senior Staffer serving out a specified portion of the notice period.

A Senior Staffer who voluntarily resigns or who, in the sole discretion of the District, is terminated for cause, is not entitled to notice or severance pay.

IV. GRIEVANCE PROCEDURE FOR SENIOR STAFF

Step-1: Informal Grievance Procedure

A member of the Senior Staff who feels aggrieved as a result of having been discharged, suspended, demoted, or given a reduction in pay, should raise the

Comment [RWG13]: Again, do we want to expand this say "Senior Staff shall have the right to appeal any decision by the General Manager that substantially affects the Senior Staff's employment, duties, status, or benefits."?
Ray

matter with the General Manager, either orally or in writing, indicating the nature of the complaint, the District policies involved, and the desired resolution. If in writing, it shall not be necessary for the Senior Staff member to include any or all of the facts and circumstances surrounding the grievance. The aggrieved Senior Staff member should bring the matter to the attention of the General Manager as soon as possible and must do so within **ten (10) working days** of the incident to be grieved.

During this Informal Grievance Procedure, the aggrieved Senior Staff member and the General Manager should engage in informal discussions for the purpose of resolving the issue in the simplest and most direct manner. The General Manager must reach a decision and communicate that decision, orally or in writing, to the aggrieved Senior Staff member within **ten (10) working days** from the date the matter was raised with the General Manager.

Step-2: Filing a Formal Written Grievance

If the Senior Staff member's grievance is not satisfactorily resolved by the informal procedure in Step-1, the aggrieved Senior Staff member may commence the formal grievance process by filing a Formal Written Grievance Form (*Appendix C*) with the District's HR Coordinator. This Grievance Form must be filed within **ten (10) working days** of the oral or written Step-1 response of the General Manager.

Comment [RWG14]: HR Coordinator or perhaps the District Clerk? Ray

Senior Staff members must utilize the Grievance Form shown in Appendix C for the filing of formal grievances. The Grievance Form must be signed by the aggrieved Senior Staff member and should contain as much detail as possible. If more space is needed, additional pages may be attached. The Grievance Form should include the names of all individuals involved, the names of any witnesses, and any written response to the Senior Staff member's Step-1 informal grievance from the General Manager. Once reduced to writing, the text of the grievance shall remain unaltered as the grievance progresses through any additional steps.

Step-3: Meeting with General Manager, District Counsel & Chair of BOC

Within **ten (10) working days** after the filing of the Grievance Form, the General Manager shall schedule a meeting with the Senior Staff member, the District Counsel and the Chairperson of the District's Board of Commissioners. If the Chairperson is for any reason unavailable, another member of the Board can take the Chairperson's place. The Senior Staff member can also request to have another Senior Staff member of his/her choosing present at that meeting.

Comment [RWG15]: How about a lawyer or some other person? Ray

Within **ten (10) working days** of the Step-3 meeting, the General Manager shall respond in writing to the Senior Staff member's grievance. The General Manager's response should give a full explanation of the General Manager's decision with respect to the grievance. Copies of that response should be given to the Employee and should be included in the grievance file."

Comment [RWG16]: Sent to the Commissioners? Ray

Step-4: Elect to Accept GM's Decision or Appeal to BOC

Within **ten (10) working days** of the General Manager's Step-3 response to the Senior Staff member's grievance, the aggrieved Senior Staff member's must elect ONE of the following courses of action:

Comment [RWG17]: I had originally put in an additional alternative of Mediation, after which the Senior Staffer could appeal to BOC. But, I decided it was too complex and was unnecessary. So, I took it out. Ray

- 1) Accept the Step-3 decision of the General Manager and forgo any further proceedings with respect to the grievance. In this case, the matter would come to an end.
- 2) Make a Final Appeal of the Step-3 decision of the General Manager to the Key Largo Wastewater Treatment District's Board of Commissioners.

The option elected by the Senior Staff member shall be reduced to writing by the HR Coordinator and signed by the Senior Staff member. A copy of that writing should be given to the Employee and should be included in the grievance file.

Comment [RWG18]: Clerk? Ray

Step-5: Final Appeal to Board of Commissioners

If the Senior Staffer elects to appeal the Step-3 decision of the General Manager to the Key Largo Wastewater Treatment District's Board of Commissioners, the Senior Staffer shall, within 72 hours of the Step-3 meeting, notify the District Clerk of that fact.

Upon receipt of such notification, the District Clerk shall arrange for the Senior Staff member's Final Appeal to be heard by the District's Board of Commissioners. This hearing should be scheduled for the earliest convenient and practicable regular meeting of the Board. At that hearing, the Senior Staff member shall be permitted to address the Board of Commissioners and to give testimony.

Comment [RWG19]: Shall we add, "The Senior Staff member shall not be permitted to call witnesses at this hearing."? Can the Senior Staffer have a lawyer present? Ray

Unless the Board of Commissioners takes some action to reverse or modify the Step-3 decision of the General Manager, that Step-3 decision shall stand. There shall be no further appeals available to Senior Staff.

Comment [RWG20]: Do we want to include: "If a member of the Senior Staff has been suspended, discharged, received a reduction in pay or demoted, the filing a grievance [shall] stay the effect of such action."

(or)

"...the filing a grievance [shall not] stay the effect of such action. However, if at the conclusion of the grievance procedure, the District rules in the Employees favor, the Employee shall receive any back pay due at the sole discretion of the General Manager."
Ray

Section D. Special Grievances Procedures

I. NO RETALIATION FOR FILING A GRIEVANCE

If, at any point in the grievance process, the Employee feels that he or she has been retaliated against for filing a grievance, the Employee may file another formal written grievance form in accordance with this procedure. That Grievance Form should be as detailed as possible and should include: the nature of the alleged retaliation; the names of all individuals involved; the names of any witnesses; and a copy of the original grievance that the Employee believes was the basis for the alleged retaliation.

II. NO RETALIATION FOR REPORTING WORKPLACE VIOLENCE

The District prohibits any form of discipline, reprisal, intimidation or retaliation for reporting incidents of workplace violence of any kind, pursuing a workplace violence complaint or cooperating in related investigations. If an Employee is found to have retaliated against another Employee for exercising their rights under this Grievance Policy, the District may, in its sole discretion, discipline that Employee as it sees fit. Such discipline may include, but is not limited to, termination and/or suspension with or without pay. Nothing in this section takes away the District's status as an at-will employer or its Employees' status as at-will Employees.

The District is committed to enforcing this policy against all forms of workplace violence. However, the effectiveness of the District's efforts depends largely on Employees reporting all incidents of workplace violence, including threats. Employees who witness any workplace violence should report it immediately. In addition, if an Employee feels that they or someone else may have been subjected to conduct that violates this policy, they should report it immediately. If Employees do not report workplace violence incidents, the District may not become aware of a possible violation of this policy and may not be able to take appropriate corrective action.

III. EMPLOYEES COVERED UNDER A COLLECTIVE BARGAINING AGREEMENT

The employment details set out in this policy work in conjunction with, and do not replace, amend or supplement any terms or conditions of employment stated in any collective bargaining agreement that a union may have with the District. Wherever employment details in this policy differ from the terms expressed in a union's collective bargaining agreement with the District, Employees should refer to the specific terms of the collective bargaining agreement, which will control.

IV. CONDUCT NOT PROHIBITED BY GRIEVANCE PROCEDURE

This Procedure is not intended to preclude or dissuade Employees from engaging in activities protected by state or federal law (including the National Labor Relations Act), such as discussing wages, benefits or terms and conditions of employment, forming, joining or supporting labor unions, bargaining collectively through representatives of their choosing, raising complaints about working conditions for their and their fellow Employees' mutual aid or protection, or legally required activities.

V. NO COMPLETE CONFIDENTIALITY

The District cannot promise complete confidentiality regarding an Employees' Grievance. Various people will need to be made aware of the Employee's concern in order to address it.

In addition, Florida has a very broad public records law, which establishes a right of access to public records in plain and unequivocal terms. Generally speaking, personnel records are considered to be public records and are, therefore, available to be inspected and copied by any person desiring to do so. However, the District respects the privacy of its Employees and will make a good faith effort to only share personnel records on a need-to-know basis.

VI. EMPLOYEE RECOGNITION OF PROCEDURE

I [EMPLOYEE NAME] acknowledge that on [DATE], I received a copy of The *KEY LARGO WASTEWATER TREATMENT DISTRICT GRIEVANCE PROCEDURE*, and that I read it, I understood it, and I agree to comply with it.

I understand that District has the maximum discretion permitted by law to interpret, administer, change, modify or delete this policy at any time. Any modification of the policy will be: sent to each Employee; or posted in a conspicuous location at District's place of business; or posted on the District's Website.

I understand that no statement or representation by a supervisor or manager or any other Employee, whether oral or written, can supplement or modify this policy. Changes can only be made if formally approved by the Key Largo Wastewater District's Board of Commissioners.

I also understand that any delay or failure by District to enforce any policy, procedure, or rule will not constitute a waiver of its right to do so in the future.

I understand that neither this Procedure nor any other communication by a management representative or any other Employee, whether oral or written, is intended to in any way create a contract of employment.

I understand and acknowledge that, I am employed at will and this policy does not modify my at-will employment status. If I have a written employment agreement signed by an authorized representative and this policy conflicts with the terms of my employment agreement, I understand that the terms of my employment agreement will prevail.

Comment [RWG21]: Is this what we want?
Are all employees' contracts up to date? Ray

(Signature of Employee)

(Date)

(Print Name of Employee)

[APPENDIX A]

Comment [RWG22]: This needs to be tweaked. Ray

To:

From:

Dept:

Date:

Immediate Superior:

Dear

I wish to take a formal Grievance out against:

In accordance with the Company Grievance Procedure. The details of my Grievance are shown below [Employee must include the names of all individuals involved, the names of any witnesses, and any written response to the Employee's Stage-1 informal grievance from the Employee's immediate supervisor. Attach additional pages if necessary.] :

Yours sincerely,

[APPENDIX B]

Comment [RWG23]: This needs to be tweaked. Ray

To

From

Dept

Date

Department Head

Dear

On _____ my Grievance against _____ was heard by
_____.

I am not satisfied with the outcome of this meeting and would like to appeal to you for a further hearing of my Grievance, in line with the Company Grievance Procedure.

I enclose a copy of the original letter regarding this matter and other correspondence and information related to it.

Yours sincerely

[APPENDIX C- Senior Staff member']

Comment [RWG24]: This needs to be tweaked. Ray

To General manager:

From:

Dept:

Date:

General Manager

Dear

On _____ I appealed to

_____ against the decision made at my initial Grievance against

I remain dissatisfied with the outcome of this meeting and would like to appeal to you for a further hearing of my Grievance, in line with the Company Grievance Procedure.

I enclose a copy of the original letter regarding this matter and other correspondence and information related to it.

Yours sincerely

KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form

Meeting Date: June 11, 2013

Agenda Item No. **4**

- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING
<input checked="" type="checkbox"/> DISCUSSION
<input type="checkbox"/> ACTION ITEM
<input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION
<input type="checkbox"/> BID/RFP AWARD
<input type="checkbox"/> CONSENT AGENDA |
|--|--|

SUBJECT: District Educational Assistance Program Policy

RECOMMENDED MOTION/ACTION: Discussion

Approved by General Manager *MBland*
Date: 6/7/2013

Originating Department: Legal	Costs: unknown Funding Source: Budget	Attachments: Existing Policy with suggestions for additional language
Department Review: <input checked="" type="checkbox"/> District Counsel <u>RWG</u> <input checked="" type="checkbox"/> General Manager <u><i>MB</i></u> <input type="checkbox"/> Finance _____	<input type="checkbox"/> Engineering _____ <input type="checkbox"/> Clerk _____ <input type="checkbox"/> [Operations] _____	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required

Summary Explanation/Background:

The District has an existing Educational Assistance Program. The Board has asked the General Counsel to review this program/policy and make recommendations. Attached is a copy of the current, existing policy (from page 24 of the District's Employee Handbook) with possible suggestions for additional language. Those suggestions are underlined and are in blue font.

Resulting Board Action:

- Approved
 Tabled
 Disapproved
 Recommendation Revised

Suggestions for additional language are underlined and are in blue.

From the Employee Handbook -- page 24

3.14 EDUCATIONAL ASSISTANCE PROGRAM

The District has adopted an employee educational assistance program, as follows:

1. This program is open to all full-time employees who have completed twelve (12) months of continuous employment prior to the time of course enrollment.
2. A District employee may request that the District provide financial assistance, including the cost of books, equipment, fees, supplies, and tuition for education and training that the employee believes will assist him or her in performing employment duties.
3. The employee's request must include a written course outline and statement of the course objectives set by the course provider, a brief written statement of the benefit to the District expected to result from the employee's successful completion of the course, and a listing of the costs to be paid by the District. The employee must submit the request to his or her supervisor.
4. The District will, in its discretion, approve a request for educational assistance if the District General Manager determines; that participation in the course will benefit the District; and that the cost to the District is reasonable and within the District's budget; and that the course relates to maintaining or improving the employee's current job skills or is part of a degree program.
5. The District General Manager may limit the amount of educational assistance to an amount that is less than the full cost, and may impose conditions on the approval, including without limitation that course attendance will be during the employee's personal time, as opposed to work time. The District normally will not pay the employee's travel and subsistence costs in connection with course attendance unless the District General Manager determines that the benefit to the District as a result of the employee's completion of the course will be substantial, or unless the District requires the employee to attend the course.
6. District educational assistance is not taxable income to the employee.
7. An employee may not choose to receive cash or other benefits that must be included in gross income instead of educational assistance.
8. Employees will not receive educational assistance if they terminate employment prior to completion of an approved course. In such event, any advance payments received

by the employee must be repaid to the District. If the educational assistance is in furtherance of a college degree or a professional license, the District may condition the assistance on the employee's agreement to repay the assistance if the employee voluntarily leaves District employment within two (2) years after receiving the assistance.

9. Employees will not be eligible for educational assistance if they withdraw from an approved course or if the approved course is canceled. Employees are required to immediately notify their supervisor and the Human Resources Coordinator if they withdraw from an approved course or if the course is canceled.

10. Educational assistance is contingent upon the employee earning a passing grade or confirmation of satisfactory completion of the course when a course is not graded. If the employee receives an incomplete in a course, the employee will have until the end of the following semester to complete the work and have the incomplete removed. Failure to complete the work will prohibit the employee from further participation in the educational assistance program, and any advance payments received by the employee must be repaid to the District.

**KEY LARGO WASTEWATER TREATMENT DISTRICT
Agenda Request Form**

Meeting Date: June 11, 2013

Agenda Item No. **5**

- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING
<input checked="" type="checkbox"/> DISCUSSION
<input type="checkbox"/> ACTION ITEM
<input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION
<input type="checkbox"/> BID/RFP AWARD
<input type="checkbox"/> CONSENT AGENDA |
|--|--|

SUBJECT: Resolution retiring rates resolution and amending District Rules and Regulations to incorporate rules and procedures for rates, billing, and disputes.

RECOMMENDED MOTION/ACTION: Discussion

Approved by General Manager *MBland*
 Date: 6/7/2013

Originating Department: Legal	Costs: \$ Funding Source:	Attachments: Draft Resolution
Department Review: <input type="checkbox"/> District Counsel _____ <input checked="" type="checkbox"/> General Manager <u><i>MB</i></u> <input type="checkbox"/> Finance _____	<input type="checkbox"/> Engineering _____ <input type="checkbox"/> Clerk _____ <input type="checkbox"/> [Operations] _____	Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required

Summary Explanation/Background: As the District completes its transition to a utility company, it is proper to now simplify, clarify and consolidate the District's various policies concerning rates. Such consolidation, along with adjustments to certain rate policies previously discussed by the Board, is presented for review and subsequent approval.

Resulting Board Action:

- Approved
 Tabled
 Disapproved
 Recommendation Revised

RESOLUTION NUMBER XX-YY-ZZ

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT RETIRING RESOLUTION NO. 16-10-10 REGARDING MONTHLY RATES AND CHARGES FOR WASTEWATER COLLECTION, TRANSMISSION, TREATMENT, AND DISPOSAL AND AMENDING THE KEY LARGO WASTEWATER TREATMENT DISTRICT RULES AND REGULATIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 15, 2006, the District adopted Resolution No. 05-02-06 establishing initial monthly rates and charges for wastewater service; and

WHEREAS, subsequently, the District has amended Resolution 05-02-06 a number of times, the last such amendment being on October 5, 2010 with the adoption of Resolution No. 16-10-10; and

WHEREAS, the District desires to amend the provisions of Resolution 16-10-10 to clarify and restate the methodology for establishing monthly rates and charges; and

WHEREAS, the District has sought and carefully considered advice from District staff and consultants regarding the anticipated costs of wastewater collection, transmission, treatment, and disposal; and

WHEREAS, the District desires to adopt and implement rates and charges to allocate among its customers the costs of wastewater collection, transmission, treatment, and disposal, including establishment of funds, as appropriate, for repair and replacement of facilities; and

WHEREAS, the District has adopted General Rules and Regulation and last amended the same on June 21, 2011; and

WHEREAS, the District has decided that it now be proper that the methodology for establishing monthly rates and charges and the provisions for the review and adjustment of such charges be adopted permanently as part of the Key Largo Wastewater Treatment District General Rules and Regulations

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

SECTION 1: The Key Largo Wastewater Treatment District Resolution No 16-10-10 dated October 5, 2010 be hereby retired effective immediately.

SECTION 2: Section 9.03 Monthly Customer Fees, of the Key Largo Wastewater Treatment District General Rules and Regulations as last amended on June 21, 2011, be renamed “Fees and Charges for Wastewater Service” and otherwise amended per Attachment 1 of this Resolution.

SECTION 3: Section 10.06 Billing Disputes; Mistakes, of the Key Largo Wastewater Treatment District General Rules and Regulations as last amended on June 21, 2011, be renamed “Adjustment of Fees and Charges” and otherwise amended per Attachment 2 of this Resolution.

SECTION 4: Article XI. Definitions and Construction of Terms, of the Key Largo Wastewater Treatment District General Rules and Regulations as last amended on June 21, 2011, be amended per Attachment 3 of this Resolution.

SECTION 5: The table of contents of the Key Largo Wastewater Treatment District General Rules and Regulations as last amended on June 21, 2011 be amended to reflect all such changes amended by this Resolution.

EFFECTIVE DATE. This Rate Resolution shall take effect immediately upon its adoption by the District.

The foregoing RESOLUTION was offered by Commissioner _____, who moved its approval. The motion was seconded by Commissioner _____, and being put to a vote, the result was as follows:

	AYE	NAY
Chairman Robby Majeska	X	___
Commissioner Steven Gibbs	X	___
Commissioner David Asdourian	X	___
Commissioner Norman Higgins	X	___
Commissioner Andrew Tobin	X	___

The Chairman thereupon declared Resolution XX-YY-ZZ duly passed and adopted the ** day of 2013.

**KEY LARGO WASTEWATER TREATMENT
DISTRICT GOVERNING BOARD**

By _____
Robby Majeska, Chairman

Attest:

Approved as to form and content:

By _____
Carol Walker, Board Clerk

By _____
District Counsel

benefit that the tax parcel will receive as a result of the wastewater service to be provided. The amount determined will be no less than the amount of the original SDC assessment less the principal portions of any payments received by the District on account of annual assessments. In addition to the original SDC as adjusted under the preceding sentence, the District will add any amounts that the District is required to spend in order to provide a service connection to the tax parcel. The total of the original SDC and the additional amounts will be the adjusted SDC. The District will offer the owner of the tax parcel to pay the amount of the adjusted SDC as a lump sum, or to pay it in the form of annual assessments, including charges normally associated with assessments, over a period of 20 years.⁺⁺⁺

Section 9.03 ~~Monthly Customer Fees~~ Fees and Charges for Wastewater Service.

~~(1) Monthly Customer Fees are adopted in a Rate Resolution, which is attached hereto as Appendix A.~~

(2)(1) Monthly base charge for Customers receiving water from FKAA:

- (i) For each customer that is the sole FKAA customer owning or occupying a tax parcel assessed by the District and connected by gravity directly to a collection system, transmission main, or other piping operated and maintained by the District, the Monthly Base Charge is \$33.60 per Dwelling Unit or Equivalent Dwelling Unit reflected in the most recent assessment of the tax parcel. ~~If the number of Dwelling Units or Equivalent Dwelling Units is fractional (e.g. 3.5), the Monthly Base Charge is equal to \$33.60 multiplied by the number of Equivalent Dwelling Units rounded to the nearest tenth (e.g. the Monthly Base Charge for a customer with 3.49 Dwelling Units would be calculated using 3.50 as the number of Dwelling Units).~~
- (ii) For each customer that is one of several FKAA customers occupying a tax parcel assessed by the District and connected by gravity to a collection system, transmission main, or other piping operated and maintained by the District the Monthly Base Charge is \$33.60 multiplied by the number of Dwelling Units or Equivalent Dwelling Units attributed to that customer. ~~For example, (1) if the customer occupies one of four dwelling units in a tax parcel that was assessed for four Dwelling Units, the Monthly Base Charge for that customer is \$33.60; or (2) if the customer occupies a portion of a non-residential property assessed on the basis of historical water flow, and the historical water flow through that customer's FKAA water meter indicates a flow of 2.1 Equivalent Dwelling Units, the Monthly Base Charge for that customer is \$33.60 multiplied by 2.1, or \$70.56.~~
- (iii) For each FKAA customer owning or that occupying ies a Ttax pParcel that has not yet been assessed by the District, the District will calculate the number of Dwelling Units or Equivalent Dwelling Units attributable to the tTax pParcel and to the eCustomer in the manner provided in the District's most recent final District-Non-Ad Valorem Assessment Resolution, and will calculate the eCustomer's Monthly Base Charge on that basis until the District has assessed that tTax pParcel. After the District has assessed that tTax pParcel, the mMonthly bBase eCharge for that eCustomer will be calculated in the manner provided in other paragraphs of this section.
- (iv) In addition to the Monthly Base Charges provided herein, the District may impose BOD surcharges as provided in Section 9.04 below, the District Rate Resolution.
- (v) For FKAA meters coded as Fire or Irrigation meters, there will be no Monthly Base Charge.

⁺⁺⁺ Subsection 9.02(2)(iv) added by resolution on 6/21/11.

(vi) ~~The preceding Monthly Base Charges do not apply to Laundromats.~~ The ~~m~~Monthly ~~b~~Base ~~c~~Charge for a Laundromat is \$33.60.

(2) Monthly volumetric charge for Customers receiving water from FKAA:

(i) ~~For each FKAA Customer with a residential use meter, the Monthly Volumetric Charge is \$5.27 per 1,000 gallons of water consumed billed, as reflected on the Customer's FKAA water meter or meters monthly statement, provided that for a residential customer, the~~ The maximum monthly volume for which the Monthly Volumetric Charge will be ~~charged billed~~ is 12,000 gallons ~~per residential dwelling unit~~.

(ii) ~~For each FKAA Customer with a non-residential use meter, the Monthly Volumetric Charge is \$5.27 per 1,000 gallons of water billed, as reflected on the Customer's FKAA monthly statement. There is no maximum monthly volume for which the Monthly Volumetric Charge will be billed on non-residential use meters.~~

(iii) ~~For water meters coded in FKAA records with a location class that indicates that the water be used solely for fire or irrigation, there will be no Monthly Volumetric Charges.~~

(3) Alternative water supply, wastewater service monthly charge: The District will charge a flat fee of \$44.14 per month for Alternative Water Supply Wastewater Service.

(4) Deferral of wastewater service fees:

(i) If, under the provisions of Section 4.02(3), the Customer's Premises is improved with one or more buildings capable of generating wastewater that would enter the District's Wastewater Facilities, but no building on the Premises is capable of being used in a manner that might generate wastewater, the Customer may apply for a temporary deferral of wastewater monthly billing.

(ii) Approval of deferrals applied for under the provisions of this section are at the sole discretion of the General Manager.

(iii) Upon approval, such deferral shall expire the earlier of

1) such date as the Monroe County Building Department issues a certificate of occupancy (CO) OR;

2) such date as the Customer reconnects to the central wastewater system OR;

3) sixty (60) calendar days.

(iv) Damages to a premise caused by natural disasters including but not limited to hurricane, storm damage or flood do not apply to this provision.

Section 9.04 Pretreatment Fees.

(1) The wastewater discharge from certain facilities, even when passed through properly sized and maintained grease interceptors, may contain elevated levels of Biochemical Oxygen Demand. A BOD surcharge will be applied to the Customer's sewer bill for wastewater discharges with a BOD in excess of 500 parts per million. The surcharge will be applied by multiplying the monthly volumetric charge by the ratio of the Customer's BOD divided by 375.^{§§§§}

^{§§§§} Subsection 9.04(1) added by Resolution 18-10-10 on 10/05/10.

- (6) Notwithstanding any other provision of these rules, when Wastewater Service is subject to discontinuance (disconnection) or has been discontinued due to account delinquency, the District may restore such Service prior to payment of all amounts due, provided the Customer has entered into a negotiated payment agreement.
- (7) Failure to pay amounts due the District within the time designated for payment will result in the District exercising all reasonable business efforts to collect such unpaid amount, including delinquent fees, interest, attorney fees and filing charges.

Section 10.06 Billing Disputes; Mistakes; Adjustment of Fees and Charges

- ~~(1) In the event of a billing dispute, the Customer must contact the District's Customer Service Office and request an investigation of the account. The District will record the relevant account information, nature of the dispute or alleged mistake and date of contact.~~
- ~~(2) The District will investigate the billing and respond by mail within sixty (60) calendar days. If the response is not satisfactory to the Customer, the Customer may within five (5) business days from the date of mailing request further review by the General Manager, who will respond to the Customer by mail within five (5) business days.~~
- ~~(3) The District will not disconnect service for non-payment of the disputed amount during the period commencing with the request for investigation of the account and ending with a response from the District or the General Manager, provided that the Customer has requested an investigation prior to the Account becoming delinquent. In the event the dispute is resolved against the Customer, the Customer will have five (5) business days to pay the disputed amount, and will thereafter be subject to Disconnection of Service and other charges.~~
- ~~(1) Adjustment of fees and charges for wastewater service: It is the policy of the District to permit Customers to question and seek adjustments to certain types of charges, as follows:~~

(i) Monthly Base Charges.

- 1) If a Customer occupying a portion of a Tax Parcel believes that their water usages should be recalculated due to one of the following conditions, the Customer may request an adjustment according to the provisions of this section:
 - a) CHANGE OF BUSINESS USE: If, as a result of a change of business occupation, the use of a portion of a particular Tax Parcel shall change, upon the Customer's request, the District will recalculate the EDU assignment for that Customer by applying the new classification that describes the new use of the portion of that Tax Parcel. If necessary, the District will use a reasonable method to estimate the projected water use of for the Tax Parcel by using available data or an estimating methodology that is generally applied in the State of Florida for such purposes. Should a change be merited, all tenants of that particular Tax Parcel would be subject to review initiated by the District.
 - b) CHANGE OF DWELLING USE: If, as a result of a lawful conversion of a portion of a particular Mixed-Use Tax Parcel from a non-residential unit to a Dwelling Unit or from a Dwelling Unit to a non-residential unit, the Customer requests a review by the District, the District will recalculate the EDU Assignment for the portion of the entire

Tax Parcel applicable to the Customer's request. If necessary, the District will use a reasonable method to estimate the projected water use of for the Tax Parcel by using available data or an estimating methodology that is generally applied in the State of Florida for such purposes. Should a change be merited, all tenants of that particular Tax Parcel would be subject to review initiated by the District.

- c) PATTERN OF USAGE CHANGE: If the Customer believes that the long-term pattern of actual water consumption is greater or less than the billed water use, the Customer may request that the District review and if appropriate, adjust the EDU assignment for that portion of the particular Tax Parcel applicable to the Customer's request. Should a change be merited, all tenants of that particular Tax Parcel would be subject to review initiated by the District.

2) If a Customer is the sole occupant of a Tax Parcel for which the non-ad valorem Assessment changes due to a Customer or District initiated request for review pursuant to the applicable assessment resolution pertaining to that parcel, the monthly base charge for the Customer will be adjusted prospectively to reflect that recalculation.

3) If such a change is incidental to the installation of an irrigation or fire meter, the Customer shall be entitled to a credit to their FKAA bill as follows and under the following conditions:

- a) The Customer must request a credit in writing to the District Assessment Coordinator no earlier than twelve (12) months after such irrigation or fire meter is installed. In addition to the provisions of Section 10.06(2) below, included with such request must be:
- i) Proof of installation of the irrigation or fire meter.
 - ii) Proof that FKAA has approved the installation of the irrigation or fire meter and has adjusted your FKAA water bill to reflect the same.
 - iii) The twelve (12) most recent months of FKAA water bills following the installation of the irrigation or fire meter reflecting the adjusted billing.
 - iv) An EDU assignment will be recalculated based upon the methodology in the latest applicable assessment resolution associated with the Tax Parcel using the twelve (12) months of adjusted data listed in item (iii) above.
 - v) The procedures from Section 10.06(2)(iv) and 10.06(2)(v) below shall govern the request.
 - vi) Should the final determination of the Board be to approve such request, the Customer is entitled to a calculated partial credit for wastewater base charges for the twelve (12) month period listed in item (iii) above:
 - vii) Such credit shall be calculated by applying the number of EDUs calculated on the updated water flow to the period calculated in paragraph (iii) above and deducting that from the actually base charge billing for the same period. Only months where a wastewater base charge was billed shall be eligible for a partial credit.
- b) If the Board approves the Customer's request, the Customer's account will be automatically reviewed annually for the two years following the request using twenty four and thirty six months of data respectively. The EDU assignment shall be adjusted through the procedures outlined in Section 10.06(2)(iv) and 10.06(2)(v) below based upon those subsequent reviews. The Customer shall NOT be entitled to further credits (or back charges) based on those reviews.

c) Should it be determined that a Customer is using an irrigation or fire meter specifically to avoid wastewater charges by using such meters to provide potable water services which may be introduced into the wastewater system:

- i) The Customer's account will be automatically reviewed based upon water usage of all meters, including those being improperly used for potable water.
- ii) The billing will be adjusted from the time of original appeal forward and the customer shall be responsible for the adjust increase billing retroactively.
- iii) District Staff will notify FKAA of such findings and the Customer may face further fees or penalties as are levied by FKAA.
- iv) Such a violation is considered by the District as "Tampering" and shall be subject to additional fees and actions as outlined in Section 9.05 above.-

(ii) Monthly Volumetric Charge. Except under one of the circumstances below and at the sole discretion of the General Manager, Except for errors in meter readings, there shall be no adjustment of a Monthly Volumetric Charge for any given month. They include:-

- 1) The Customer provides proof of and FKAA confirms an error in the meter reading.
- 2) The Customer has properly filed for and successfully obtained a credit from FKAA under the FKAA Leak Abatement Program. The credit of wastewater charges shall be calculated based upon \$5.27 times the number of gallons that the FKAA has credited as part of their abatement credit divided by 1,000.

(4)(2) Procedures for District review:- The District shall review and adjust charges to accounts using the procedures specified in the District Connection Policies.

(i) Time for Request.—A Customer may request adjustment of monthly charges at any time within sixty (60) days after the date of a bill for wastewater service. The District shall is not required be obligated to make any adjustment of monthly charges unless a written request is received within sixty (60) days of the bill date, unless otherwise addressed in the provisions of this Section. The District may initiate a review and possible adjustment of monthly charges at any time.

(-)(ii) Contents of Request.—A Customer request for review must contain:

- 0) 1) A concise statement of the facts upon which the owner bases the request for review, including a statement of all disputed issues of material fact. If there are no disputed issues of material fact, the request must so indicate;
- 0) 2) The rules, statutes, and other legal authority that the owner contends form the basis for relief;
- 0) 3) A demand for the relief which the owner believes is appropriate; and
- 0) 4) Such other information which the owner believes to be material to the request for review.

(-)(iii) Filing Request.—The request for review must be delivered or mailed to the District Customer Service Department Clerk where, Upon receipt, it shall be appropriately logged and time stamped, the District Clerk will log in the request for review. Acceptable

methods of delivery include US Postal Service or other third party delivery service, facsimile, electronic mail (e-mail) or in person.

(-)(iv) Review by District Staff. The District staff shall review the request using the following process:

- 0)1) District Staff will exercise due diligence to undertake review of a Customer request promptly. If practicable, District staff will issue a recommended decision to the Board within seven (7) fifteen (15) Business Days after receipt of a completed Customer request for review.
 - 2) At any time prior to or during staff review, the District may conduct one or more informal discussions with the owner, and may request additional information and documentation. A requested is not considered completed until after all additionally requested documentation has been submitted to the District.
 - 3) The Assessment Coordinator will review the EDU assignment of the Customer's account, using the methodology provided in the most recent non-ad valorem Assessment resolution under which the District assessed the Tax Parcel. If the Customer's account is one of two or more accounts for service on a single Tax Parcel and the Assessment Coordinator finds that there is sufficient evidence to change the EDU assignment for the requested account, the Assessment Coordinator will also review the EDU assignment for the entire Tax Parcel and all other Customer accounts for service on the Tax Parcel.
- a) If the review results in a recommended increase in the EDU assignment for the Tax Parcel, the Assessment Coordinator will submit the increase to the Board for review under Paragraph (v), below. If the Board accepts the increased EDU assignment, the increased EDU assignment will apply to all future monthly charges and to all future non-ad valorem Assessments for the Tax Parcel.
 - b) If the review results in a recommendation of no change in the EDU assignment for the Tax Parcel, but results in a recommendation of a change in the EDU assignment for the account of the Customer, the Assessment Coordinator will submit the change to the Board for review under Paragraph (v), below.
 - c) If the review results in a recommendation for reduction of the EDU assignment for the account of a Customer, the General Manager may at the General Manager's discretion, grant temporary relief to the Customer by reducing the Customer's EDU assignment for future monthly billings to the recommended number of EDU's. Upon Board action to approve, reject, or amend the recommended reduction, the District will retroactively adjust monthly billings from the date of temporary relief.
 - d) The District Clerk will mail a copy of the recommended decision to the Customer who requested the review, the Owner of the Tax Parcel and all other Customers of that Tax Parcel receiving FCAA Billing whose EDU assignment would be affected by the change at the same time as the recommended decision is submitted to the Board.

(-)(v) Board Review. Upon issuance of the recommended decision by Staff, the District Clerk will place the recommended decision on the Board agenda for a meeting not less than thirty (30) days after issuance of the recommended decision. Within fifteen (15) days after mailing of the recommended decision, the Owner of the affected Tax Parcel may request that the Board hold a public hearing on the request for review, specifying any disputed facts that the Owner considers to be material to the decision. At During the meeting at which the Board is scheduled to consider the request for review, the Board may decide to accept or modify the recommended decision, or, if the Board concludes

that there are disputed issues of material fact, the Board may schedule a public hearing on the request for review. The Board's decision to accept or modify the recommended decision, or the Board's decision on the request for review after a public hearing, shall be the final District action on the request for review.

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Article XI. Definitions and Construction of Terms

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to these rules; and the term "hereafter" means after, and the term "heretofore" means before the adoption of these rules. Words of one gender include the correlative words of the other gender, unless the sense indicates otherwise. Additionally, the terms set forth below have the following meaning except where the context clearly otherwise requires:

"Act" or "the Act" refers to The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

"Active Account" means that service exists between an Owner/ Customer and the District, under which the District stands ready to serve and Service is rendered or available on demand and payment for said Service is made or due from the recipient on a Monthly basis.

"Alternative Water Supply Wastewater Service" means Wastewater Service to a property that is used exclusively for residential purposes and that receives potable water by a means other than the customer's FCAA water meter. An example of Alternative Water Supply Wastewater Service is Wastewater Service to a home that uses a rainwater collection system for its potable water supply.

"Assessed Dwelling Unit" means a single unit designated or intended for one-family occupancy (a household of one or more persons), including, but not limited to, one single-family house, one-half of a duplex, one apartment, one residential condominium unit (whether in a single-unit building or a multiple-unit building), or one mobile home or recreational vehicle space not regulated under Chapter 513, F.S. An Employee Housing Unit that is part of a Commercial Accommodation facility is not a Dwelling Unit.

"Assessment" means a charge or special assessment (sometimes characterized as a non-ad valorem assessment) imposed by the District to fund the Capital Cost of Utility Improvements or the Operating Cost of Related Services, as provided for in District Assessment resolutions.

"Biological Oxygen Demand" or "BOD" means the quantity of oxygen used in the biochemical oxidation of organic matter at a specified time, at a specified temperature, and under specified conditions. It also means a standard test for assessing Wastewater strength expressed in the demand for oxygen for a five-day period as specified in Chapter 62-160, F.A.C.*****

"Board" means the Board of Commissioners of the Key Largo Wastewater Treatment District.

"Building Permit" means an official document or certificate issued by the authority having jurisdiction, authorizing the construction or siting of any Building. The term "Building Permit" shall also include tie-down permits or other similar authorizations for those structures or Buildings, such as a mobile home or a Boat Slip/Dock/Berth that does not otherwise require a Building Permit in order to be occupied.

"Business Day" means the period of each day from 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding the District's Official Holidays.

***** Definition added by Rule Change #16 on 8/26/06.

“CFR.” means the Code of Federal Regulations.

“Capital Cost” means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal, or replacement (including demolition, environmental mitigation, and relocation) of Utility Improvements related to a capital project.

“Code of Federal Regulations” refers to the codification of the general and permanent rules published in the Federal Register by the Executive Departments and Agencies of the Federal Government.

“County” means Monroe County, a political subdivision of the State of Florida.

“Cross-Connection” means any physical arrangement whereby a water supply is connected, directly or indirectly, with any other system capable of imparting contamination to the supply as the result of backflow.

“Customer” means any Person that accepts or receives Wastewater Service.

“DEP” means the State of Florida Department of Environmental Protection.

“DOH” means the State of Florida Department of Health.

“DOT” means the State of Florida Department of Transportation.

“Day” means one (1) twenty-four (24) hour period.

“Delinquent Account” or “Delinquency” means that for the Active Account, payments for satisfaction of some or all past and current fees and charges are past due by at least two bill payment cycles of said Active Account, but Service has not yet been discontinued.

“Delinquent Account Charge” means the charge billed customers when all or part of the payment on their account has become delinquent. The Delinquent Account Charge is based on the outstanding balance as shown in Section 10.04.

“Delinquent Account Reactivation Fee” means a charge to be based on the estimated cost of activities associated with such reactivation. See Section 10.05(4).

“Department of Environmental Protection” means the State of Florida Department of Environmental Protection.

“Department of Health” means the State of Florida Department of Health.

“Department of Transportation” means the State of Florida Department of Transportation.

“Developer” means a Person developing property for resale, rental, or lease, to which Wastewater Service may be provided by the District.

“District” means the Key Largo Wastewater Treatment District.

“Discharge” means the introduction of Pollutants into a Wastewater System from any source, directly or indirectly, by means of pipes, conduits, pumping stations, ditches, or tank trucks, and all constructed devices and appliances appurtenant thereto.

“Dwelling Unit” means a single unit designated or intended for one-family occupancy (a household of one or more persons), including, but not limited to, one single-family house, one-half of a duplex, one apartment, one residential

condominium unit (whether in a single-unit building or a multiple-unit building), or one mobile home or recreational vehicle space not regulated under Chapter 513, F.S. An Employee Housing Unit that is part of a Commercial Accommodation facility is not a Dwelling Unit.

“Easement” means any legal right for the specific use of land owned by others.

“Enforcement” means actions taken in response to noncompliance with or violation of these rules or any other applicable rules, regulations, ordinances or laws.

“Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency.

“Equivalent Dwelling Unit” or “EDU” means a system capacity equivalency unit corresponding to an average of one hundred and sixty-seven (167) gallons per day of potable water usage.

“Existing Source” means any building, structure, facility, or installation from which there is or may be a Discharge, the construction of which began before promulgation of Pretreatment Standards applicable to such source.

“F.A.C.” means the Florida Administrative Code.

“Fiscal Year” means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed as the Fiscal Year for the District.

“FKAA” means the Florida Keys Aqueduct Authority.

“Force Main” means a pipe owned by the District and used to transmit Wastewater from a pump station to a treatment facility.

“General Manager” means the General Manager of the District.

“KLWTD” means the Key Largo Wastewater Treatment District.

“Laundromat” means a stand-alone laundry business that provides self-service and non-self-service laundry facilities to the public, consisting of washing machines, dry cleaning machines, and clothing dryers, in any combination. “Laundromat” does not include laundry facilities that are located in or otherwise associated with a Commercial Accommodation.

“Monthly Base Charge” means the monthly recurring charge based on the ESU assignment of the billed entity and charged as described in Section 9.03(2)(i).

“Monthly Volumetric Charge” means the monthly charge based upon the volume of potable water used by the billed entity and charged as described in Section 9.03(2)(ii)

“Minimum Design and Construction Standards and Specifications” means the engineering design and construction specification demands of the District related to Wastewater facilities constructed by any Developer, Owner, Customer or User, which are adopted by reference in these rules.

“OSTDS” see Onsite Sewage Treatment and Disposal System.

“Official Holidays” means 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.

“On-Site Treatment and Disposal System” or “OSTDS” means a Wastewater Treatment System utilizing subsurface effluent disposal (absorption field or Class V injection well) such as a conventional septic tank, aerobic treatment unit, on-site wastewater nutrient reduction system, package sewage treatment facilities.

“Operating Cost” means all or any portion of the expenses that are properly attributable to providing Services under generally accepted accounting principles.

“Owner” means a Person who is the record owner of any Premises.

“Person” means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, private or governmental, as the context may require.

“Point of Service” means: the point where the District’s Wastewater Facilities connect to Customer-installed, owned, operated and maintained facilities. The Point of Service shall generally be at the point where the Building gravity Wastewater Service Lateral intersects the right-of-way line or, in the event a utility easement exists adjacent to the right-of-way line, at the point where the Building Wastewater Service Lateral intersects the utility easement line furthest from the main.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, Wastewater, garbage, Wastewater Sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt or industrial, municipal, or agricultural waste discharged into water.

“Premises” means any and all real property and tangible personal property affixed to real property served or capable of being served by the District as a result of the existence of a Service Connection.

“Pretreatment” means reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in Wastewater prior to or in lieu of discharging or otherwise introducing such Pollutants into a Wastewater Collection or Treatment System.

“Related Service” means the operation and maintenance of a Utility Improvement.

“Returned Check” or “Bank Draft” charge is a charge based on the estimated administrative cost of collecting the amount due from the tendered check or bank draft that was not honored by the payer’s bank as provided by Chapter 832.07, Florida Statutes.

“SDC” see System Development Charge.

“Service” means the readiness to accept or the acceptance of Wastewater from a Customer at a Point of Service by the District.

“Service Charge” means the charge assessed customers, per event, when the District travels to the premises or for administrative processing by the District.

“Service Connection” means the physical attachment of the District’s facilities to those facilities of any property through which Wastewater Service is deliverable.

“Service Initiation” means the date the customer begins to receive services through a Wastewater connection or the date that service is available in a newly constructed wastewater system.

“Service Installation Fee” shall be based on the estimated cost of activities associated with construction of a Wastewater Service Lateral.

“Service Lateral” means the pipe which connects the District’s collection facilities to the Service Connection at the Point of Service. Said pipe is typically situated on private property and is owned, operated and maintained by the Owner.

“Service Line” means that portion of the Sewer System that extends beyond the end of the building drain and conveys Wastewater to a public, private, or individual Wastewater Collection System, or other point of disposal. In cases where the building is served by a Vacuum Sewer, the Building Sewer shall include the gravity line to the vacuum valve collection sump constructed within the public right-of-way or an Easement.

“Service Unit” means Premises, an area, or a module or modules consisting of a delineated space, or an enclosure of one (1) or more spaces or rooms with either appurtenant or common or public bathroom facilities or installations of other Wastewater generating fixtures, and used for a single residential or non-residential use. Service Units fall into the general categories of Permanent, Boat Slip/Dock/Berth, and Mobile.

“Sewer” means any pipe, conduit, or other device used to collect and transport Wastewater and from which storm water, surface water, and groundwater are generally excluded. As the context requires, the term is synonymous with the term Wastewater or other terms incorporating such term therein.

“Single-Lot Common Interest Property” means one or more parcels of land which:

- (i) Have been made subject to a declaration of condominium under Chapter 718, Florida Statutes, or which are committed to a co-operative association under Chapter 719, Florida Statutes, or which are located on one or more parcels of land covered by a long-term master lease (99 years or more) and governed by a homeowners’ association under Chapter 720, Florida Statutes; and
- (ii) In which the units of ownership are land lots (as opposed to apartments, townhouses, or other structures) each of which is or can be developed with not more than one Dwelling Unit; and
- (iii) In which the owner of each unit owns an undivided interest in specified common property, such as roads, club houses, marinas, or recreational facilities; and
- (iv) In which each unit is assessed by the Monroe County Property Appraiser based on the value of the unit and a fractional share of the common property.

“Sludge” means any solid or semisolid waste generated from a Wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a Wastewater treatment plant.

“State” means the State of Florida.

“System Development Charge” is a charge to new Customers and to existing Customers who modify, add, or construct facilities that impose a potential increased demand on the District’s Wastewater Facilities. The SDC is in addition to any amount that may be expended by the Owner/Customer for system improvements and other fees required by the District.

“Tampering” means any willful alteration or interference with a water meter or Wastewater system components and facilities owned by the District, except for turning the valve associated with the water meter for the purpose of temporary disconnection of service. Tampering includes obtaining unauthorized Service to a Premises or location.

“User” means any Person responsible for the Discharge of Wastewater into a Wastewater System.

“Utility Improvement” means a capital improvement constructed or installed by the District for the special benefit of a neighborhood, district, or other benefited area.

“Wastewater” means liquid and water-carried industrial, domestic, medical, food, superfluous solid, gaseous material, holding tank or other wastes from residences, commercial establishments or manufacturing facilities, whether treated or untreated, which are Discharged into a Wastewater System.

“Wastewater Collection System” means a system for carrying wastewater including but not limited to, domestic, industrial, medical, holding tank or other waste, to which storm, surface, and groundwater are not intentionally admitted.

“Wastewater Facilities” or “Wastewater System” means the system comprised of all structures, equipment, and processes required to collect, carry away, and treat domestic, industrial, medical, holding tank and other wastes and dispose of the effluent.

“Wastewater Management Facilities” means all facilities acquired, designed, constructed, installed, reconstructed, renewed, or replaced by the District for the purpose of collecting, transporting, and treating wastewater and disposing of the byproducts of such treatment. In general, Wastewater Management Facilities may be characterized as one of three types: collection system, transmission main, and treatment plant.