

RESOLUTION NUMBER NO. 09-09-05

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT APPROVING, ADOPTING, AND RATIFYING, A LOAN AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION STATE REVOLVING FUND, AND MAKING CERTAIN COMMITMENTS IN CONNECTION WITH THE LOAN AGREEMENT.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, AS FOLLOWS:

WHEREAS, the Key Largo Wastewater Treatment District (“District”) desires to receive a Clean Water State Revolving Fund Loan pursuant to Section 403.1835, Florida Statutes; and

WHEREAS, the State of Florida, Department of Environmental Protection (“FDEP”) has submitted to the District a Loan Agreement, designated “WW46401P” (“Loan Agreement”) for approval by the District, and

WHEREAS, FDEP requires, as a requirement for such loans, that the District adopt a resolution regarding compliance with certain requirements; and

WHEREAS, the District fully intends to comply with the requirement for the revolving loan;

NOW, THEREFORE, the Board of Commissioners of the Key Largo Wastewater Treatment District resolves that:

1. Approval, Adoption, and Ratification. The District hereby approves, adopts, and ratifies the Loan Agreement, a copy of which is attached hereto as Exhibit A, and incorporated herein by this reference.
2. Defined Terms. All italicized terms used in this Resolution shall have the meanings ascribed to them in the Loan Agreement.
3. Description of the Project. The *Project* consists of wastewater management facilities to be designed and constructed with the *Loan* and other funds available to the District, as described below:
 - a. **Wastewater Treatment Plant:**

The District will design and construct a wastewater treatment plant to treat the anticipated flow for the entire KLWTD service area through the 20-year planning horizon. At this time, that flow is estimated to be 2.25 MGD AADF. The Wastewater Treatment Plant will include disposal and reuse facilities, as necessary, to be constructed on land currently

owned by the District and located at approximately Mile Marker 100.5, Key Largo, Monroe County, Florida.

b. Wastewater Transmission Main:

The District will design and construct a force main of approximately 5.5 miles to transport the collected wastewater from customer connections to the Wastewater Treatment Plant.

c. Wastewater Collection Systems:

The District will design Wastewater Collection Systems to serve various neighborhoods capable of being connected to the Wastewater Transmission Main. The District will design Wastewater Collection Systems to serve the following areas: Collection Basin 1, consisting of Lake Surprise, Sexton Cove and Ocean Isle Estates residential subdivisions; commercial properties along US 1 along the route of the Wastewater Transmission Main and within the boundaries of Collection Basin 1; and Collection Basin 2 includes the Largo Gardens residential subdivision and other areas in the vicinity of Key Largo Gardens. The District will determine the number and extent of the Wastewater Collection Systems to be constructed with the loan proceeds according to funds available and construction cost experience.

4. Pledged Revenues. The District hereby pledges the following *Pledged Revenues*:

- a. *Gross Revenues.* All income or earnings received by the District from the ownership or operation of its *Sewer System*, including investment income, all as calculated in accordance with generally accepted accounting principles. *Gross Revenues* shall not include proceeds from the sale or other disposition of any part of the *Sewer System*, condemnation awards or proceeds of insurance, except use and occupancy or business interruption insurance, received with respect to the *Sewer System*.
- b. *System Development Charges and Annual Wastewater Assessments*, derived yearly from the operation of the *Sewer System* after payment of the *Operation and Maintenance Expense* and satisfaction of all yearly payment obligations on account of any senior obligations to be issued pursuant to Section 7.02 of the Loan Agreement.

5. Designation of persons authorized act on behalf of the District. The following persons are authorized to do all things necessary or appropriate with respect to the Loan Agreement, including, without limitation, executing and filing the loan application, providing assurances, executing the Loan Agreement, and representing the District in carrying out responsibilities (including that of requesting loan disbursements) under the Loan Agreement:

Charles Brooks, Chairman, and Andrew Tobin, Secretary, or their successors, acting jointly.

In addition, the following person is authorized to represent the District in providing assurances and carrying out responsibilities under the Loan Agreement:

Charles Fishburn, General Manager

In addition, the following person is authorized to represent the District in providing assurances with respect to finance and auditing issues and requesting loan disbursements under the Loan Agreement:

Martin Waits, Finance Officer

6. Assurances. The District agrees to comply with the laws, rules, regulations, policies, and conditions relating to the loan for this project. Specifically, the District certifies that it has complied, as appropriate, and will comply with the following requirements, as appropriate, in undertaking the Project:

a. Assurances for capitalization grant projects.

- i. Complete all facilities for which funding has been provided.
- ii. The Archaeological and Historic Preservation Act of 1974, PL 93-291, and the National Historic Preservation Act of 1966, PL 89-665, as amended, regarding identification and protection of historic properties.
- iii. The Clean Air Act, 42 U.S.C. 7506(c), which requires conformance with State Air Quality Implementation Plans.
- iv. The Coastal Zone Management Act of 1972, PL 92-583, as amended, which requires assurance of project consistency with the approved State management program developed under this Act.
- v. The Endangered Species Act, 16 U.S.C. 1531, et seq., which requires that projects avoid disrupting threatened or endangered species and their habitats.
- vi. Executive Order 11593, Protection and Enhancement of the Cultural Environment, regarding preservation, restoration and maintenance of the historic and cultural environment.
- vii. Executive Order 11988, Floodplain Management, related to avoiding, to the extent possible, adverse impacts associated with floodplain occupancy, modification and development whenever there is a practicable alternative.
- viii. Executive Order 11990, Protection of Wetlands, related to avoiding, to the extent possible, adverse impacts associated with the destruction or modification of wetlands and avoiding support of construction in wetlands.
- ix. The Fish and Wildlife Coordination Act, PL 85-624, as amended, which requires that actions to control natural streams or other water bodies be undertaken to protect fish and wildlife resources and their habitats.
- x. The Safe Drinking Water Act, Section 1424(e), PL 93-523, as amended, regarding protection of underground sources of drinking water.
- xi. The Wild and Scenic Rivers Act, PL 90-542, as amended, related to protecting components or potential components of the national wild and scenic rivers system.

- xii. The federal statutes relating to nondiscrimination, including: The Civil rights Act of 1964, PL 88-352, which prohibits discrimination on the basis of race, color or national origin; the Age Discrimination Act, PL 94-135, which prohibits discrimination on the basis of age; Section 13 of the Federal Water Pollution Control Act, PL 92-500, which prohibits sex discrimination; the Rehabilitation Act of 1973, PL 93-112, as amended, which prohibits discrimination on the basis of handicaps.
 - xiii. Executive Order 11246, Equal Employment Opportunity, which provides for equal opportunity for all qualified persons.
 - xiv. Executive Orders 11625 and 12138, Women's and Minority Business Enterprise, which require that small, minority, and women's business and labor surplus areas are used when possible as sources of supplies, equipment, construction and services.
 - xv. The Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq., regarding protection and conservation of the coastal barrier resources.
 - xvi. The Farmland Protection Policy Act, 7 U.S.C. 4201 et seq., regarding protection of agricultural lands from irreversible loss.
 - xvii. The Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646, which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs.
 - xviii. The Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended, which requires that projects be carried out in accordance with area wide planning activities.
 - xix. Section 306 of the Clean Air Act, Section 508 of the Clean Water Act and Executive Order 11738, which prohibit manufacturers, firms, or other enterprises on the EPA's list of Violating Facilities from participating in the Project.
 - xx. Executive Order 12549, Debarment and Suspension, which prohibits any award to a party which is debarred or suspended or is otherwise excluded from, or ineligible for, participation in federal assistance programs.
 - xxi. Minority and Women's Business Enterprise participation in project work using numerical goals, established by the U.S. Environmental Protection Agency, and to be set forth in the specifications for construction and materials contracts.
- b. Assurances for other projects.
- i. Chapter 161, Part I, F.S., "Beach and Shore Preservation Act" and Part III, "Coastal Zone Protection Act of 1985" which regulate coastal zone construction and all activities likely to affect the condition of the beaches or shore.
 - ii. Chapter 163, Part II, F.S., the "Local Government Comprehensive Planning and Land Development Regulation Act" which requires units of local government to establish and implement comprehensive planning programs to control future development.
 - iii. Chapter 186, F.S., State and Regional Planning, which requires conformance of projects with Regional Plans and the State Comprehensive Plan.
 - iv. Chapter 253, F.S., "Emergency Archaeological Property Acquisition Act of 1988" which requires protection of archaeological properties of major statewide significance discovered during construction activities.
 - v. Chapter 258, Part III, F.S., which requires protection of components or potential components of the national wild and scenic rivers system.

- vi. Chapter 267, F.S., the “Florida Historical Resources Act” which requires identification, protection, and preservation of historic properties, archaeological and anthropological sites.
- vii. Chapter 287, Part I, F.S., which prohibits parties convicted of public entity crimes or discrimination from participating in State-assisted projects and which requires consideration of the utilization of Minority Business Enterprises in State-assisted projects.
- viii. Chapter 372, F.S., the Florida Endangered and Threatened Species Act which prohibits the killing or wounding of an endangered, threatened, or special concern species or intentionally destroying their eggs or nest.
- ix. Chapter 373, Part IV, F.S., Florida Water Resources Act of 1972, which requires that activities on surface waters or wetlands avoid adversely affecting: public health, safety, welfare, or property; conservation of fish and wildlife, including endangered or threatened species or their habitats; navigation or the flow of water; the fishing or recreational values or marine productivity; and significant historical and archaeological resources.
- x. Chapter 380, Part I, F.S., Florida Environmental Land and Water Management Act of 1972 as it pertains to regulation of developments and implementation of land and water management policies.
- xi. Chapter 381, F.S., Public Health, as it pertains to regulation of onsite wastewater systems.
- xii. Chapter 403, Part I, F.S., Florida Air and Water Pollution Control which requires protection of all waters of the state.
- xiii. Chapter 582, F.S., Soil and Water Conservation Act which requires conformance with Water Management District’s regulations governing the use of land and water resources.
- xiv. Governor’s Executive Order 95-359, which requires State Clearinghouse review of project planning documentation and intergovernmental coordination.

The foregoing RESOLUTION NO. 09-09 05 was offered by Commissioner

Andrew Tobin, who moved its approval. The motion was seconded by

Commissioner Gary Bauman and being put to a vote the result was as follows:

	AYE	NAY
Commissioner Gary Bauman	<u>X</u>	_____
Commissioner Claude Bullock	<u>X</u>	_____
Commissioner Glenn Patton	<u>X</u>	_____
Commissioner Andrew Tobin	<u>X</u>	_____
Chairman Charles Brooks	<u>X</u>	_____

The Chairman thereupon declared Resolution No. 09-09-05 duly passed and adopted the 21st day of September 2005.

KEY LARGO WASTEWATER TREATMENT DISTRICT GOVERNING BOARD

By 
Charles Brooks, Chairman

Attest:

By 
Carol Walker, Board Clerk



Approved as to form and content:

By 
District Counsel

