

RESOLUTION NUMBER NO. 18-05-06

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT AMENDING RESOLUTION NO. 15-04-06 REGARDING MONTHLY RATES AND CHARGES FOR WASTEWATER COLLECTION, TRANSMISSION, TREATMENT, AND DISPOSAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 15, 2006, the District adopted Resolution No. 15-04-06 establishing initial monthly rates and charges for wastewater service; and

WHEREAS, on further investigation and discussion with the District's billing contractor, the District has determined that Resolution 15-04-06 requires amendment; 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;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT, THAT RESOLUTION NO. 15-04-06 IS AMENDED TO READ AS FOLLOWS:

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

“Adjusted Volume” means monthly water consumption volume as adjusted under Section 3.01.B, Section 3.02.B, Section 3.03.B, Section 3.04.B, or Section 3.05.B.

“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.

“Board” means the Board of Commissioners of the Key Largo Wastewater Treatment District.

“Commercial Accommodation” means a hotel, motel, or other similar facility, or a facility (such as a mobile home park, RV park, or tent camping facility) regulated under chapter 513, Florida Statutes. The fact that a facility may include one or more Employee Housing Units does not remove the facility from the class of Commercial Accommodation, and all units that are a part of a hotel, motel, or other similar property, or a property regulated under chapter 513, Florida Statutes, are deemed to be a part of the Commercial Accommodation.

“Commercial Accommodation Wastewater Service” means wastewater service to a Commercial Accommodation.

“District” means the Key Largo Wastewater Treatment District.

“District Connection Policies” means a set of policies and procedures adopted by the District and amended from time to time to govern the procedures and practices of the District.

“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.

“Employee Housing Unit” means a single unit that is part of a structure or group of structures receiving Mixed-Use Wastewater Service, or Commercial Accommodation Wastewater Service where the single unit is designated and used exclusively for housing of employees.

“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.

“FKAA” means the Florida Keys Aqueduct Authority.

“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.

“Laundromat Wastewater Service” means wastewater service to a Laundromat.

“Mixed-Use” means a development in which a single FKAA water meter serves a structure or group of structures, comprising one or more Dwelling Units, and one or more units that are not a Dwelling Unit, a Commercial Accommodation, or a Laundromat. The term “Mixed Use” describes, for example, a structure or a parcel served by a single FKAA water meter, part of which is used for residential purposes, and part of which is used for commercial purposes.

“Mixed-Use Wastewater Service” means wastewater service to a Mixed-Use development.

“Monthly Commercial Accommodation Base Charge” means the recurring monthly charge imposed upon Commercial Accommodation customers, as calculated under Section 3.04.A.

“Monthly Commercial Accommodation Volumetric Charge” means the recurring monthly charge imposed upon Commercial Accommodation customers, as calculated under Section 3.04.B.

“Monthly Laundromat Base Charge” means the recurring monthly charge imposed upon laundromats under Section 3.05.A.

“Monthly Laundromat Volumetric Charge” means the monthly charged based on volume of water consumed, calculated from FKAA consumption records under Section 3.05.B.

“Monthly Mixed-Use Base Charge” means the recurring monthly charge imposed upon mixed-use customers, as calculated under Section 3.03.A.

“Monthly Mixed-Use Volumetric Charge” means the monthly charge based on volume of water consumed, calculated from FKAA consumption records under Section 3.03.B.

“Monthly Non-Residential Base Charge” means the recurring monthly charge imposed upon non-residential customers, as calculated under Section 3.02.A.

“Monthly Non-Residential Volumetric Charge” means the monthly charge based on volume of water consumed, calculated from FKAA consumption records under Section 3.02.B.

“Monthly Residential Base Charge” means the recurring monthly charge imposed upon residential customers, as calculated under Section 3.01.A.

“Monthly Residential Volumetric Charge” means the monthly charge based on volume of water consumed, calculated from FKAA consumption records under Section 3.01.B.

“Monthly Volume” means the volume of water (in gallons) consumed by a customer in a month, calculated from FKAA consumption records.

“Non-Residential” means a structure that receives water service through an FKAA water meter where each connection from the water meter leads to premises, no part of which is a Commercial Accommodation, a Laundromat, or a Dwelling Unit. The term “Non-Residential” describes, for example, a structure or a parcel that is occupied by one or more businesses, restaurants, churches, or government offices, or a combination thereof.

“Non-Residential Wastewater Service” means wastewater service to a Non-Residential structure.

“Rate Resolution” means this resolution.

“Residential” means a structure or structures that are comprised exclusively of Dwelling Units and their appurtenances, such as garages, sheds, swimming pools, and boat docks.

“Residential Wastewater Service” means wastewater service to a Residential structure or group of structures.

“State” means the State of Florida.

“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.

SECTION 1.02. INTERPRETATION. 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 this Resolution; the term “hereafter” means after the effective date of this Resolution; the term “heretofore” means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

ARTICLE II

FINDINGS

SECTION 2.01. FINDINGS. It is hereby ascertained, determined, and declared that:

- A. Pursuant to the Key Largo Wastewater Treatment District Act (Chapter 2002-337, Florida Statutes, as amended), the Key Largo Wastewater Treatment District possesses, among other powers, the powers to:
1. Perform such acts as shall be necessary for the sound development, operation, and maintenance of a wastewater management system within the District, including all business facilities necessary and incidental thereto;
 2. Adopt resolutions and policies as necessary for implementation, regulation, and enforcement, consistent with the purposes of the District;
 3. Plan, develop, acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any wastewater management system and facilities within the territorial limits of the District; and
 4. Do all acts or things necessary or convenient to carry out the powers expressly granted in the Key Largo Wastewater Treatment District Act.
- B. The District has sought the advice of District staff and consultants to provide advice as to the rates necessary and appropriate to the sound operation and management of the District and its Wastewater Management Facilities.
- C. The rates established by this Resolution have been the subject of considerable research into the projected revenue requirements of the District funds for operations, including maintenance and repair functions, to establish reserves for operational needs, including replacement of facilities, and to carry on the business functions of the District, including employment of personnel and consultants, insurance, and other functions.
- D. Among other things, the Board contracted with Public Resources Management Group, Inc. ("PRMG") to conduct a study and make recommendations as to wastewater rates. On or about May 31, 2005, PRMG delivered to the Board the results of its study in a document entitled "Financial Forecast and Wastewater Rate Analysis." The Board held a public hearing on July 3, 2005 to receive public comments on the proposed wastewater rates.

- E. The Board has established a special classification for Laundromats for the purpose of calculating monthly rates. The District has determined that, for that purpose only, a Laundromat is to be counted as having one EDU. This determination was based on the Board's finding that the vast majority of Laundromat customers are either residents of the District or guests at Commercial Accommodations within the District and that the monthly rates to be paid on account of those residences and Commercial Accommodations will be sufficient to provide for wastewater treatment facility operating costs required for Laundromat wastewater.
- F. In July 2005, the District entered into an interlocal agreement with Monroe County under which the District will receive grant funds to assist in expansion of the District's Wastewater Management Facilities include facilities to be constructed in an area of the island of Key Largo generally north of MM 100, and known as the "North Components." Among other things, the interlocal agreement prohibits the District, except as may be required by applicable law, from permitting connections to, or furnishing any services afforded by, the North Components without making a charge therefore based on the District's connection policies.
- G. At the regular District meeting of December 7, 2005, the Board of Commissioners directed District Staff to make recommendations as to a rate structure and to prepare a rate resolution.
- H. The rates established by this resolution will result in fair and reasonable apportionment of costs among the District's customers.
- I. The rates established by this Rate Resolution are imposed by the District, and not Monroe County.
- J. The District intends to review the rates imposed under this Rate Resolution from time to time and will amend, modify, and supplement it as necessary and appropriate.
- K. This Rate Resolution is limited to District rates, fees, and charges for monthly wastewater service. This Rate Resolution does not address plan review fees, service charges, pretreatment fees, filing fees, or other types of charges other than the direct charges to be imposed for wastewater service. Such rates, fees, and charges will be addressed in a separate resolution or in District Connection Policies.

ARTICLE III

FEEES AND CHARGES FOR WASTEWATER SERVICE

SECTION 3.01. RESIDENTIAL WASTEWATER SERVICE MONTHLY CHARGE.

- A. Monthly Residential Base Charge: \$33.60 per Dwelling Unit receiving water service through a single FKAA water meter.
- B. Monthly Residential Volumetric Charge: \$0.527 per 100 gallons of water consumed.
 - 1. The Monthly Volume will be calculated from meter data provided to the District by the FKAA.
 - 2. The Monthly Residential Volumetric Charge will be calculated as follows:
 - a. Divide the monthly consumption (in gallons) by 100;
 - b. Adjust the result to the next higher whole number (provided that in no case will the result be increased to a number greater than 120) to arrive at Adjusted Volume;
 - c. Multiply the Adjusted Volume by \$0.527.
- C. The monthly charge for a month is the sum of the Monthly Residential Base Charge and the Monthly Residential Volumetric Charge for that month.

SECTION 3.02. NON-RESIDENTIAL WASTEWATER SERVICE MONTHLY CHARGE.

- A. Monthly Non-Residential Base Charge. \$33.60 per Equivalent Dwelling Unit. The number of Equivalent Dwelling Units for purpose of determining the Monthly Non-Residential Base Charge is calculated from historic FKAA consumption records, as follows
 - 1. Review the consumption records for the FKAA water meter to determine the highest three-consecutive-month usage in the three calendar years ending on the last day of the year prior to the year in which the calculation is made;
 - 2. Divide the consumption (in gallons) for the highest three-consecutive-month period by three to determine average monthly consumption;
 - 3. Divide the average monthly consumption by 5,010;
 - 4. Adjust the result to the next higher one-tenth.

B. Monthly Non-Residential Volumetric Charge: \$0.527 per 100 gallons of water consumed.

1. The Monthly Volume will be calculated from meter data provided to the District by the FKAA.
2. The Monthly Non-Residential Volumetric Charge will be calculated as follows:
 - a. Divide the monthly consumption (in gallons) by 100;
 - b. Adjust the result to the next higher whole number to arrive at Adjusted Volume;
 - c. Multiply the Adjusted Volume by \$0.527.

C. The monthly charge for a month is the sum of the Monthly Non-Residential Base Charge and the Monthly Non-Residential Volumetric Charge for that month.

SECTION 3.03. MIXED-USE WASTEWATER SERVICE MONTHLY CHARGE.

A. Monthly Mixed-Use Base Charge: The Monthly Mixed-Use Base Charge is calculated as follows:

1. Calculate the number of Equivalent Dwelling Units served through the water meter as in Section 3.02.A, above.
2. Count the total number of Dwelling Units served through the water meter.
3. The Monthly Mixed-Use Base Charge is \$33.60 multiplied by the greater of
 - a. The number of Equivalent Dwelling units served through the water meter as calculated in Section 3.03.A.1, above, or
 - b. The number of Dwelling Units served through the water meter, plus one.

B. Monthly Mixed-Use Volumetric Charge: \$0.527 per 100 gallons of water consumed.

1. The Monthly Volume will be calculated from meter data provided to the District by the FKAA.
2. The Monthly Mixed-Use Volumetric Charge will be calculated as follows:
 - a. Divide the monthly consumption (in gallons) by 100;
 - b. Adjust the result to the next higher whole number to arrive at Adjusted Volume;
 - c. Multiply the Adjusted Volume by \$0.527.

C. The monthly charge for a month is the sum of the Monthly Mixed-Use Base Charge and the Monthly Mixed-Use Volumetric Charge for that month

SECTION 3.04. COMMERCIAL ACCOMMODATION WASTEWATER SERVICE MONTHLY CHARGE.

- A. Monthly Commercial Accommodation Base Charge: The Monthly Commercial Accommodation Base Charge is calculated as follows
1. Calculate the number of Equivalent Dwelling Units served through the water meter as in Section 3.02.A, above.
 2. Count the number of hotel rooms, motel rooms, or other similar accommodations comprising the facility.
 3. Count the number of RV spaces, tent camping spaces, and mobile home spaces comprising the facility.
 4. The Monthly Commercial Accommodation Base Charge is \$33.60 multiplied by the greater of:
 - a. The number of Equivalent Dwelling units served through the water meter as calculated in Section 3.04.A.1, above, or
 - b. The total number of hotel rooms, motel rooms, other similar accommodations, RV spaces, tent camping spaces, and mobile home spaces comprising the facility.
- B. Monthly Commercial Accommodation Volumetric Charge: \$0.527 per 100 gallons of water consumed.
1. The monthly volume will be calculated from meter data provided to the District by the FKAA.
 2. The Monthly Commercial Accommodation Volumetric Charge will be calculated as follows:
 - a. Divide the monthly consumption (in gallons) by 100;
 - b. Adjust the result to the next higher whole number to arrive at Adjusted Volume;
 - c. Multiply the Adjusted Volume by \$0.527.
- C. The monthly charge for a month is the sum of the Monthly Commercial Accommodation Base Charge and the Monthly Commercial Accommodation Volumetric Charge for that month

SECTION 3.05. LAUNDROMAT MONTHLY CHARGE.

A. Monthly Laundromat Base Charge. The Monthly Laundromat Base Charge is \$33.60.

B. Monthly Laundromat Volumetric Charge. \$0.527 per 100 gallons of water consumed.

1. The monthly volume will be calculated from meter data provided to the District by the FKAA.
2. The Monthly Commercial Accommodation Volumetric Charge will be calculated as follows:
 - a. Divide the monthly consumption (in gallons) by 100;
 - b. Adjust the result to the next higher whole number to arrive at Adjusted Volume;
 - c. Multiply the Adjusted Volume by \$0.527.

C. The monthly charge for a month is the sum of the Laundromat Base Charge and the Monthly Laundromat Volumetric Charge for that month.

SECTION 3.06. 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.

ARTICLE IV

ADJUSTMENT OF FEES AND CHARGES

SECTION 4.01. 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:

A. Monthly Base Charges. The District shall calculate the Monthly Residential Base Charge, the Monthly Non-Residential Base Charge, the Monthly Mixed-Use Base Charge, and the Monthly Commercial Accommodation Base Charge (collectively, “monthly base charge”) applicable to a customer based on all available information. The District will consider adjusting the monthly base charge for a customer for future months, where either:

1. The use of the property changes, such that the calculation of the monthly base charge would be changed, or
2. The customer’s consumption of water through an FKAA meter reflects a long-term (12 months or more) change in the pattern of consumption, such that the calculation

of the monthly base charge would be changed. In the case of a change in the pattern of consumption of water, the District will calculate the monthly base charge in the manner provided in Section 3.02.A, above, using data from the three calendar years preceding the year in which the calculation is made.

Adjustments to monthly base charges under this Section 4.01.A will be made for future months, only, and the District will not make adjustments for months earlier than the date on which the customer requests an adjustment.

In addition, the District may adjust Monthly Base Charges at any time that the District becomes aware of a change in the use of the property or a change in the pattern of monthly water consumption at the property. Prior to adjusting Monthly Base Charges under this paragraph, the District will give the affected customer(s) notice and an opportunity to be heard regarding a proposed adjustment, and the customer(s) may request review of an adjustment under Section 4.02, below.

B. **Monthly Volumetric Charge.** Except for errors in meter readings, there shall be no adjustment of a Monthly Volumetric Charge for a given month.

SECTION 4.02. PROCEDURES FOR DISTRICT REVIEW. The District shall review and adjust charges to accounts using the procedures specified in the District Connection Policies.

A. **Time for Request.** A customer may request adjustment of monthly charges at any time within sixty days after the date of a bill for wastewater service. The District is not required to make any adjustment of monthly charges unless a written protest is received within sixty days of the bill date.

B. **Contents of Request.** A request for review must contain:

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;
2. The rules, statutes, and other legal authority that the owner contends form the basis for relief;
3. A demand for the relief which the owner believes is appropriate; and
4. Such other information which the owner believes to be material to the request for review.

- C. Filing Request. The request for review must be delivered or mailed to the District Clerk. Upon receipt, the District Clerk will log in the request for review
- D. Review by District Staff. District Staff will review the request for relief, and will exercise due diligence to issue a recommended decision to the Board within seven (7) Business Days after receipt of a complete request for review. Prior to issuing the recommended decision, the General Manager may conduct one or more informal discussions with the owner, and may request additional information and documentation. If requested by the owner, the General Manager may extend the time for issuance of a recommended decision in order to consider additional information and documentation. The District Clerk will mail a copy of the recommended decision to the owner at the same time as the recommended decision is submitted to the Board.
- E. Board Review. Upon issuance of the recommended decision, 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 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 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.

ARTICLE V

GENERAL PROVISIONS

SECTION 6.01. SEVERABILITY. If any clause, section, or provision of this Rate Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 6.02. CONFLICT. In the event that any portion of this Rate Resolution, or application thereof, conflicts with any State or federal law, such State or federal law shall prevail.

SECTION 6.03. EFFECTIVE DATE. This Rate Resolution shall take effect immediately upon its adoption by the District.

The foregoing RESOLUTION NO. 18-05-06 was offered by Commissioner Tobin, who moved its approval. The motion was seconded by Commissioner Brooks, 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> | ___ |
| Chairman Glenn Patton | <u>X</u> | ___ |
| Commissioner Andrew Tobin | <u>X</u> | ___ |
| Commissioner Charles Brooks | <u>X</u> | ___ |

The Chairman thereupon declared Resolution 18-05-06 duly passed and adopted the 3rd day of May, 2006.

**KEY LARGO WASTEWATER TREATMENT
DISTRICT GOVERNING BOARD**

By Glenn Patton
Glenn Patton, Chairman

Attest:

By Carol Walker
Carol Walker, Board Clerk

Approved as to form and content:

By Thomas McWilliam
District Counsel