

RESOLUTION NUMBER 16-10-10

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT AMENDING RESOLUTION NO. 18-05-06 REGARDING MONTHLY RATES AND CHARGES FOR WASTEWATER COLLECTION, TRANSMISSION, TREATMENT, AND DISPOSAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 3, 2006, the District adopted Resolution No. 18-05-06 establishing initial monthly rates and charges for wastewater service; and

WHEREAS, since the date of adoption of Resolution No. 18-05-06, the District has made numerous changes to its assessment methodology and rules, but these changes have not been incorporated into a rate resolution; and

WHEREAS, the District desires to amend Resolution 18-05-06 to bring it into conformity with its current assessment resolutions and rules; 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. 18-05-06 IS 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.

“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.¹

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

“District” means the Key Largo Wastewater Treatment 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.

“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.

“Monthly Base Charge” means the charge described in Section 3.01.²

“Monthly Volumetric Charge” means the charge described in Section 3.02.³

“Rate Resolution” means this resolution.

“Single-Lot Common Interest Property” means one or more parcels of land which:⁴

A. 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

¹ Definition added by Resolution 16-10-10 on 8/05/10.

² Definition added by Resolution 16-10-10 on 8/05/10.

³ Definition added by Resolution 16-10-10 on 8/05/10.

⁴ Definition added by Resolution 16-10-10 on 8/05/10.

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

B. 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

C. 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

D. 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.

“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. This resolution addresses only monthly rates and charges for wastewater service. Other charges and fees are found in the various District non-ad valorem assessment resolutions, as amended, and the District rules.

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. 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. The rates established by this resolution will result in fair and reasonable apportionment of costs among the District's customers.
- H. The rates established by this Rate Resolution are imposed by the District, and not Monroe County.
- I. 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.
- J. Many District customers will deliver their wastewater to District Wastewater Facilities by gravity. Those customers who cannot deliver their wastewater by gravity will incur additional costs to own, operate, and maintain pumping facilities. The District intends to perform a rate study no later than the year 2013 in order to determine whether these rates should be adjusted.⁵
- 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

FEES AND CHARGES FOR WASTEWATER SERVICE⁶

SECTION 3.01. MONTHLY BASE CHARGE FOR CUSTOMERS RECEIVING WATER FROM FKAA.

- A. For each customer that is the sole FKAA customer occupying a tax parcel assessed by the District and connected by gravity directly to a collection system 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

⁵ Finding J added by Resolution 16-10-10 on 8/05/10.

⁶ Article III revised and consolidated by Resolution 16-10-10 on 8/05/10.

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).

- B. 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 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.
- C. For each customer that occupies a tax parcel 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 tax parcel and to the customer in the manner provided in the most recent final District Non-Ad Valorem Assessment Resolution, and will calculate the customer's Monthly Base Charge on that basis until the District has assessed that tax parcel. After the District has assessed that tax parcel, the monthly base charge for that customer will be calculated in the manner provided in other paragraphs of this section.
- D. In addition to the Monthly Base Charges provided herein, the District may impose BOD surcharges as provided in the District Rate Resolution.
- E. The preceding Monthly Base Charges do not apply to Laundromats. The monthly base charge for a Laundromat is \$33.60.

SECTION 3.02. MONTHLY VOLUMETRIC CHARGE FOR CUSTOMERS RECEIVING WATER FROM FKAA.

- A. Monthly Volumetric Charge: \$5.27 per 1,000 gallons of water consumed, as reflected on the customer's FKAA water meter or meters, provided that for a residential customer, the maximum monthly volume for which the Monthly Volumetric Charge will be charged is 12,000 gallons.

SECTION 3.03. 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.** If a customer occupies a tax parcel for which the non-ad valorem assessment changes due to a change in use or a review of the assessment initiated by the District or the owner of the tax parcel and resulting in recalculation of the number of Dwelling Units or Equivalent Dwelling Units comprising the tax parcel, the monthly base charge for the customer will be adjusted prospectively to reflect that recalculation.
- 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 request 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. 16-10-10 was offered by Commissioner Hammaker, who moved its approval. The motion was seconded by Commissioner Majeska, and being put to a vote the result was as follows:

	AYE	NAY
Chairman Norman Higgins	<u>X</u>	___
Commissioner Charles Brooks	<u>X</u>	___
Commissioner Susan Hammaker	<u>X</u>	___
Commissioner Robby Majeska	<u>X</u>	___
Commissioner Andrew Tobin	<u>X</u>	___

The Chairman thereupon declared Resolution 16-10-10 duly passed and adopted the 5th day of October 2010.

**KEY LARGO WASTEWATER TREATMENT
DISTRICT GOVERNING BOARD**

By *Norman Higgins*
Norman Higgins, Chairman

Attest:

By *Carol Walker*
Carol Walker, Board Clerk

Approved as to form and content:

By *Thomas Madillon*
District Counsel

