

RESOLUTION NUMBER NO. 19-08-14

A RESOLUTION OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT AMENDING AND RESTATING PRELIMINARY ASSESSMENT RESOLUTION (RESOLUTION NO. 11-05-14) RELATING TO THE CONSTRUCTION AND FUNDING OF WASTEWATER COLLECTION, TRANSMISSION, AND TREATMENT FACILITIES WITHIN THE DISTRICT; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS AND FOR CORRECTION OF ERRORS AND OMISSIONS; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION MAY BE REFERRED TO AS THE 2014 FINAL ASSESSMENT RESOLUTION.

WHEREAS, the District has conducted a Public Hearing on this date regarding the Preliminary Assessment Resolution (No. 11-05-14), and has considered the comments received;

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Key Largo Wastewater Treatment District, 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.

“**Annual Assessment Resolution**” means the resolution adopted by the District approving 1) an Assessment Roll, 2) establishing the adjusted cost for specific components of the Assessment Roll including but not limited to the connection, capacity and equipment costs applicable to all Tax Parcels initially Assessed that year and 3) the interest rate used to calculate the Assessment Roll for that specific Tax year in accordance with the Uniform Assessment Collection Act.

“**Annual Debt Service Component**” means the amount computed for each Tax Parcel pursuant to Section 5.02 hereof.

“**Assessment**” means a charge imposed by the District against real property within the Assessment Area to fund the Capital Cost of Utility Improvements or the Operating Cost of

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Related Services, as provided for in the District Assessment resolutions. The Assessment may represent a portion of the total System Development Charge as calculated herein and in accordance with the Uniform Assessment Collections Act or may represent the entire System Development Charge where applicable.

“Assessment Roll” means a roll of Non-Ad Valorem charges prepared by the District and certified to the Monroe County Tax Collector for collection. Annually, the District may prepare a preliminary and, upon review

“Assessment Area” means the proposed initial Wastewater Assessment Area described in Section 4.01 hereof.

“Assessment Coordinator” means a Person or Persons designated by the District to be responsible for coordinating Assessments.

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

“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 the Wastewater Management Facilities, and imposition of the Assessment under generally accepted accounting principles; and including reimbursement to the District for any funds advanced for Capital Cost and interest on any interfund, intrafund, or temporary construction loan for such purposes.

“Collection Cost” means the estimated cost to be incurred by the District during any Fiscal Year in connection with the collection of Assessments including, but not limited to, costs associated with billing and collection, financing charges, and other charges or costs associated with the use of the Uniform Assessment Collection Act.

“District” means the Key Largo Wastewater Treatment District.

“District Obligation” means an Original Obligation secured by proceeds of the Assessments.

“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.

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“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. This figure is computed in the manner described in Section 4.02 hereof. **“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.

“Excluded Parcel” means a Tax Parcel, as determined by the District, that will not receive a special benefit from construction of the District Wastewater Management Facilities and accordingly, not be included in the District’s Tax Roll. To be designated as an Excluded Parcel, the Tax Parcel must not be improved with facilities or structures that generate, or might generate, sewage that will be managed by the District Wastewater Management Facilities.

“Final Assessment Resolution” means the resolution that will confirm, modify, or repeal this Resolution and that will be the final proceedings for imposition of Assessments described in this Resolution.

“Final Assessment Roll” means the non-ad valorem assessment roll relating to the Assessment Program described in Section 3.01 hereof.

“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 by law as the fiscal year of the District.

“FKAA” means the Florida Keys Aqueduct Authority.

“Government Property” means a Tax Parcel owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

“Initial Prepayment Amount” means the amount required to pay in full the System Development Charge for a particular Tax Parcel prior to being included in the Annual Assessment Roll as set forth in the applicable Assessment Resolution.

“Irrigation Meter” means a particular type of meter as defined and installed by the Florida Keys Aqueduct Authority as an “Irrigation Meter” for Commercial properties that have excessive potable water use that does not return to the wastewater system.

“KLWTD Rules and Regulations” means the Key Largo Wastewater Treatment District General Rules and Regulations as may from time to time be amended.

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“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

“Mixed-Use Tax Parcel” means a Tax Parcel improved with a structure or group of structures, comprising one or more Dwelling Units, and one or more units that are not a Dwelling Unit, or a Laundromat.

“Multi-Family, Unique Residential Parcel” means a Unique Residential Parcel intended for more than one Dwelling Unit and less than seven Dwelling Units.

“Non-Residential Tax Parcel” means a Tax Parcel classified by the Property Appraiser as other than “residential” and that is improved with a structure or structures, no part of which is a Dwelling Unit.

“Original Obligations” means that portion of a series of bonds or other evidence of indebtedness, including without limitation notes, commercial paper, capital leases, or any other obligations issued or incurred to finance the Project Cost of the District Wastewater Management Facilities.

“Preliminary Assessment Roll” means the non-ad valorem preliminary assessment roll relating to the Assessment Program described in Section 3.01 hereof.

“Project Cost” means (A) the aggregate Initial Prepayment Amount of all Tax Parcels subject to the Assessment prior to any prepayments, (B) the Transaction Cost associated with the District Obligations attributable to District Wastewater Management Facilities, (C) interest accruing on such District Obligations for such period of time as the District deems appropriate, (D) the debt service reserve fund or account, if any, established for the District Obligations attributable to District Wastewater Management Facilities, and (E) any other costs or expenses related thereto.

“Property Appraiser” means the Monroe County Property Appraiser.

“Qualifying Water Meter” means a water meter which provides service to a Tax Parcel and has a service type designation of “W RES” or “W NONRES” according to FCAA records.

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

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“Single-Family, Unique Residential Parcel” means a Unique Residential Parcel intended for a single Dwelling Unit.

“State” means the State of Florida.

“System Development Charge” or **“SDC”** means the District's charge to each owner of property. The SDC is expected to recover approximately 40% of the Capital Costs related to the construction of the Wastewater Management Facilities attributable to the Tax Parcels covered by this Resolution.

“Tax Collector” means the Monroe County Tax Collector.

“Tax Parcel” means a parcel of real property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

“Tax Roll” means the real property ad valorem tax assessment roll maintained by the Monroe County Tax Collector for the purposes of the levy and collection of ad valorem taxes.

“Transaction Cost” means the costs, fees, and expenses incurred by the District in connection with the issuance and sale of any series of District Obligations, including without limitation (A) rating agency and other financing fees; (B) the fees and disbursement of bond counsel and disclosure counsel, if any; (C) the underwriter's discount; (D) the fees and disbursements of the District's financial advisor; (E) the costs of preparing and printing the District Obligations; (F) the fees payable in respect of any bond or reserve account insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; (H) any private placement fees; and (I) any other costs of a similar nature incurred in connection with the issuance of such District Obligations.

“Uniform Assessment Collection Act” means the method of collecting non-ad valorem assessments provided in Chapter 197.3632, Florida Statutes.

“Unique Residential Parcel” means a residential Tax Parcel which can only deliver wastewater to the main collection system by means of a pumping mechanism and by connecting either to a low pressure collection system or to a transmission main. A Unique Residential Parcel does not include a residential multi-family Tax Parcel consisting of more than six Dwelling Units or a Tax Parcel for which the District has provided a connection point capable of receiving wastewater by gravity, such as a gravity collection system or a vacuum pit.

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“Vacant Parcel” means a Tax Parcel that is unimproved with any structures or facilities such as quick-connect fixtures for recreational vehicles that might generate Wastewater, but does not include a Tax Parcel for which permits have been issued for construction.

“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.

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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, and the Uniform Special District Accountability Act of 1989 (Chapter 189, Florida Statutes), the Key Largo Wastewater Treatment District possesses, among other powers, the powers to:
1. Perform such acts as shall be necessary for the sound planning, acquisition, 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, purchase or otherwise acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any wastewater management system and facilities within the territorial limits of the District;
 4. Assess and impose ad valorem and non-ad valorem assessments upon the lands in the District, as provided by the Key Largo Wastewater Treatment District Act and the Uniform Assessment Collection Act; and
 5. Do all acts or things necessary or convenient to carry out the powers expressly granted in the Key Largo Wastewater Treatment District Act.
- B. On or about December 3, 2013, the Board adopted a resolution expressing its intent to use the Uniform Method of Collecting Non-Ad Valorem Assessments.
- C. The District has entered into written agreements with the Property Appraiser and the Tax Collector in connection with the assessment and collection of non-ad valorem assessments.
- D. The District has entered into contracts for the design and construction of Wastewater Management Facilities to serve the District, including the portion of the District described in this Resolution as the Assessment Area, and these Wastewater Management Facilities will be designed and constructed.
- E. Construction and operation of the Wastewater Management Facilities will provide a special benefit to real property located within the Assessment Area by providing access to the sewer system, eliminating the present need for onsite sewage treatment and disposal

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- facilities on the real property located within the Assessment Area, eliminating existing illegal and inadequate onsite sewage treatment and disposal facilities on the real property located within the Assessment Area, and preventing further pollution of the ground water and surface waters under, on, and adjacent to the real property within the Assessment Area.
- F. The Assessment established by this Resolution has been the subject of considerable research into the projected needs of the District for capital funding using the various possible methods of determining the amount of System Development Charges (“SDCs”) for the apportionment of Capital Costs among the properties to be assessed. Among other things, the Board contracted with Public Resources Management Group, Inc. (“PRMG”) to conduct a study and make recommendations as to wastewater rates and SDC’s. 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 and SDC’s.
- G. As a result of these efforts, on July 20, 2005, the Board accepted the PRMG recommendations, and adopted a method of calculation of SDC’s to be imposed against real property located within the Assessment Area. The amounts to be collected as SDC’s total about 40% of the Capital Cost of District Wastewater Management Facilities constructed, and to be constructed, by the District and allocated to the Tax Parcels covered by this Resolution.
- H. At that time, the Board established a special classification for Laundromats for the purpose of calculating SDC’s. The District 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 hotels, motels, and other guest accommodations within the District and that the SDC’s to be paid on account of those residences and guest accommodations will be sufficient to provide capacity for sewage generated by Laundromats.
- I. The District has designed the Wastewater Management Facilities in a way that is most economical and cost-effective for the District, as a whole. Although the District has provided the vast majority of residential Tax Parcels with connection points capable of receiving wastewater by gravity, the District has not provided gravity connection points

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for Unique Residential Parcels. The Board finds that it is fair and reasonable to provide low pressure wastewater transmission equipment, commonly referred to as grinder pumps, to the Unique Residential Parcels. Further, the Board finds that is in the best interests of the District for the District to install the low pressure equipment and associated piping needed to connect the Unique Residential Parcels to the Wastewater Management Facilities, to maintain the low pressure equipment and associated piping installed by the District as described herein.

- J. The Board hereby reaffirms its findings and determinations as described above. In addition, District Staff has conducted research and inspections of properties within the Assessment Area, and has developed classifications of service for the purpose of setting monthly rates. The Board adopts classifications of service for the purpose of SDC's and Assessments, as further described below. Further, the Board has determined that it is appropriate to increase the amounts of SDC's in order to take into account inflation since the 2005 Final Assessment Resolution.
- K. The method for calculating SDC's described below is a fair and reasonable apportionment of costs among the properties to be assessed under this Resolution.
- L. The use of the Uniform Assessment Collection Act is a convenient and secure method to ensure collection of all SDC's to be collected by the District. Use of this method will enhance the ability of the District to borrow funds at reasonable rates in order to further develop and expand the Wastewater Management Facilities.
- M. The Assessment established by this Resolution is imposed by the District, and not Monroe County. Any activity of the Property Appraiser or Tax Collector in connection with this Resolution and the non-ad valorem assessment shall be solely ministerial.

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ARTICLE III
ASSESSMENT ROLL

Not applicable.

ARTICLE IV

GENERAL PROVISIONS WITH RESPECT TO ASSESSMENTS

SECTION 4.01. DESCRIPTION OF PROPOSED ASSESSMENT AREA.

Not applicable.

SECTION 4.02. INITIAL PREPAYMENT AMOUNT. The Initial Prepayment Amount for each Tax Parcel covered by this Resolution is equal to the SDC calculated for that Tax Parcel, which is dependent upon the Tax Parcel classification as follows:

- A. Residential Tax Parcels. For residential wastewater Service, the SDC is the sum of:
 - 1. \$2,060 per Dwelling Unit for wastewater treatment plant capacity, plus
 - 2. \$1,210 per Dwelling Unit for force main – pipe capacity, plus
 - 3. \$2,500 per connection for connection to the wastewater system.
- B. Non-Residential Tax Parcels. For non-residential wastewater service, the SDC is the sum of:
 - 1. \$2,060 per EDU for wastewater treatment plant capacity;
 - 2. \$1,210 per EDU for force main – pipe capacity; plus
 - 3. \$2,500 per connection or actual cost of connection, whichever is greater, for connection to the wastewater system.
 - 4. EDUs shall be calculated using the methodology indicated in the KLWTD Rules and Regulations.
- C. Laundromats. For purposes of calculating SDC's, a Laundromat shall be counted as one EDU, regardless of actual historic water consumption.
- D. Mixed-Use Tax Parcels. For mixed-use wastewater service, the SDC is the sum of:
 - 1. \$2,060 per EDU for wastewater treatment plant capacity;
 - 2. \$1,210 per EDU for force main – pipe capacity; plus
 - 3. \$2,500 per connection or actual cost of connection, whichever is greater, for connection to the wastewater system.
 - 4. EDUs shall be calculated using the methodology indicated in the KLWTD Rules and Regulations.
- E. Unique Residential Parcel. For a Unique Residential Parcel, the SDC is the sum of:
 - 1. \$2,060 per Dwelling Unit for wastewater treatment plant capacity, plus

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2. \$1,210 per Dwelling Unit for force main – pipe capacity, plus
 3. \$2,500 per connection for connection to the wastewater system; plus
 4. \$3,400 per connection for low pressure equipment.
- F. Vacant Parcel. The initial SDC for a Vacant Parcel will be the same as the SDC for a Residential Tax Parcel improved with one Dwelling Unit. Upon development of the parcel, the District may revise the SDC to reflect actual or permitted construction.

SECTION 4.03. Provisions regarding the computation method, initial prepayment option, excluded parcels, subdivided and combined tax parcels, incorrectly assessed parcels, request for review of assessment and optional and mandatory prepayments are outlined in the KLWTD Rules and Regulations Article X.

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ARTICLE V

GENERAL PROVISIONS

SECTION 5.01. METHOD OF COLLECTION.

Not applicable.

SECTION 5.02. SEVERABILITY. If any clause, section, or provision of this 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 5.03. CONFLICT. In the event that any portion of this Resolution, or application thereof, conflicts with any State or Federal law, such State or Federal law shall prevail.

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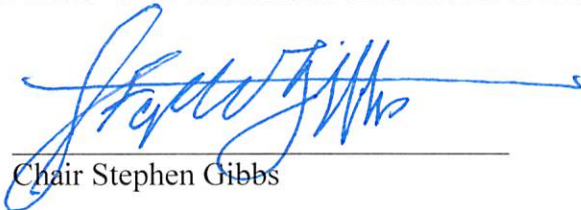
EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption by the District.

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

	AYE	NAY
Chairman Stephen Gibbs	<input checked="" type="checkbox"/>	___
Commissioner David Asdourian	<input checked="" type="checkbox"/>	___
Commissioner Norman Higgins	<input checked="" type="checkbox"/>	___
Commissioner Robert Majeska	<input checked="" type="checkbox"/>	___
Commissioner Andrew Tobin	<input checked="" type="checkbox"/>	___

The Chairman thereupon declared Resolution No. 19-08-14 duly passed and adopted the 5th day of August, 2014.


KEY LARGO WASTEWATER TREATMENT DISTRICT

BY: 
Chair Stephen Gibbs

ATTEST:

Approved to as to form and legal sufficiency


Melissa Cornelison, Deputy Clerk


Raymond Giglio, District Counsel

