

RECEIVED-FPSC

14 MAY 22 AM 9:08

COMMISSION
CLERK

RE# 126800-000000

Florida Keys Linen Company, LLC
5341 5th Ave, Stock Island, FL 33040

Addendum to December 6, 2012 UTILITY AGREEMENT

This Addendum to December 6, 2012 UTILITY AGREEMENT ("Addendum") is an addendum to the UTILITY AGREEMENT a contract between KW Resort Utilities Corp., a Florida Corporation, having its offices at 6630 Front Street, Key West Florida 33040 (Service Company) and Florida Keys Linen Company LLC, having its office(s) located at 5341 5th Ave Stock Island FL 33040 (Developer) which is dated December 6, 2012 ("UTILITY AGREEMENT") and shall become effective as of today, May 20, 2014. The UTILITY AGREEMENT is attached and made a part of this document.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), and the mutual covenants and agreements hereinafter set forth, and intending to be legally bound thereby, notwithstanding any terms in the UTILITY AGREEMENT to the contrary, Service Company and Developer agree as follows:

1. The parties agree that wherever there is any conflict between this Addendum and the UTILITY AGREEMENT, the provisions of this Addendum will control and the UTILITY AGREEMENT will be construed accordingly.
2. Developer acknowledges that because of business expansion the water usage is over and above the amount reserved in paragraph 6b of the UTILITY AGREEMENT. Developer has supplied Service Company accesses to information necessary to determine the number of ERC's that correspond to the increased use of the property. From this information it has been determined 84.62 additional ERC's are required for the business expansion that has occurred on the property. The determination of the additional ERC's is more particularly described in Exhibit D attached hereto and incorporated herein.
3. Developer shall pay to Service Company a reservation fee (Capacity Reservation Fee), in the amount of Two Thousand Seven Hundred (\$2,700.00) dollars per E.R.C. connection to be reserved by Developer to serve the commercial enterprise within the commercial structure/s on the Property (individually, a Connection, collectively, the Connections). ERC's assigned to the property must remain with the property and, as such, are non-transferrable to other property.
4. Service Company shall allow Developer to pay the owed Capacity Reservation Fee according to Payment Schedule A. (on Page 2) provided the 12 payments are each paid in full, and are not late under the terms and conditions as set forth in paragraph 5 of this Addendum to December 6, 2012 UTILITY AGREEMENT.

IN WITNESS WHEREOF, Service Company and Developer have executed this Addendum as of May 20, 2014.

SERVICE COMPANY:

DEVELOPER:

KW Resort Utilities Corp.

Florida Keys Linen Company LLC

By: 

By: 

Print Name: Christopher A. Johnson

Print Name: D. KUNTZMANN

Title: President

Title: CO/PRESIDENT

Address: 6630 Front Street

Address: 5341 5th Ave

Key West, FL 33040

Stock Island, FL 33040

STATE OF FLORIDA)
) ss.
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 19 day of MAY 2014, by DIDIER KUNTZMANN, as CO/PRESIDENT, FLORIDA KEYS LINEN CO. LLC a Florida corporation, on behalf of said corporation. He/she is personally known to me or who has produced _____ as identification.

My Commission Expires:

NOTARY PUBLIC-STATE OF FLORIDA
Judi L. Irizarry
Commission # EE070830
Expires: MAR. 22, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

STATE OF FLORIDA)
) ss.
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 19 day of MAY 2014, by CHRISTOPHER JOHNSON, as PRESIDENT - KW RESORT UTILITIES a Florida corporation, on behalf of said corporation. He/she is personally known to me or who has produced _____ as identification.

My Commission Expires:

NOTARY PUBLIC-STATE OF FLORIDA
Judi L. Irizarry
Commission # EE070830
Expires: MAR. 22, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

Payment Schedule A.

Payment No.	Payment Date	Payment Amount
1	May 15, 2014	\$14,539.50
2	Aug 15, 2014	\$14,539.50
3	Nov 15, 2014	\$14,539.50
4	Feb 15, 2015	\$14,539.50
5	May 15, 2015	\$14,539.50
6	Aug 15, 2015	\$14,539.50
7	Nov 15, 2015	\$14,539.50
8	Feb 15, 2016	\$14,539.50
9	May 15, 2016	\$14,539.50
10	Aug 15, 2016	\$14,539.50
11	Nov 15, 2016	\$14,539.50
12	Feb 15, 2017	\$14,539.50

5. Should Florida Keys Linen Company, LLC fail to make any of the 12 payments on **Payment Schedule A**, KW Resort Utilities Corp. may refuse service as a result of non-payment and may demand payment for the entire balance of Total Capacity Due be paid in a lump sum prior to service being restored. If payment is not received on the Payment Date or before the Payment Date, the payment shall be considered late. In the event of a late payment, KW Resort Utilities Corp may refuse service as a result of late payment and may require the entire balance of Total Capacity Due be paid in a lump sum prior to service being restored. Additionally, KW Resort Utilities Corp. may place an interest charge on late payments equal to 10% per annum.
6. Developer agrees to pay Service Company's attorney's fees for any professional legal services due to the non-payment or late payment as defined in Paragraph 5.
7. Service Company shall be entitled to collect a monthly fee from Developer for treatment of the wastewater corresponding to the additional flow generated from the redevelopment. Applicable fees, rates, and charges shall be paid to Service Company by the Developer in accordance with paragraph 5a of the UTILITY AGREEMENT.



KW Resort Utilities, Corp.

**6630 Front Street
Key West, FL 33040**

10 **305.295.3301**

**FAX 305.295.0143
www.kwru.com**

Exhibit D - ERC Calculation Sheet

Project Name Keys Linen Company, LLC
Didier Kuntzmann & Oybek Egamberdiev

Property Address 5341 5th Avenue, Stock Island FL 33040

RE # (s) 126800-000000

Calculation used: **Water Usage History** or **F.A.C. Chapter 64E-6**

Original Capacity for Florida Keys Linen from 12/06/2012
The 4 MFS125 w/ recycling system process requires: ((3054 gal/day) / (250gal/ERC)) = **12.22 ERC**

Pursuant to the Utility Agreement dated December 6th, 2012 by and between Florida Keys Linen Company, LLC and KW Resort Utilities, Corp (KW RU), Florida Keys Linen has exceeded the reserved capacity pursuant to paragraph 5(b) by 21,156.0 GPD. This figure is based upon the average of the highest 3 months flows within the last 3 years, which is the industry standard. Since December 2012 there was an increase in water used by Florida Keys Linen, and therefore, the capacity fee needs to be adjusted to reflect this increase in use. Thus, Florida Keys Linen is required to pay an additional capacity fee for its use equal to \$228,474.00. The calculations are as follows:

May 2014 FKA Read = 23,275.86 gpd
April 2014 FKA Read = 25,675.00 gpd
March 2014 FKA Read = 23,682.14 gpd

Highest FKA 3 month average = 24,211.00 gallons/day
(24,211.00 gallons/day ACTUAL USE) – (3,055 gallons/day PURCHASED 12.22 EDU) = 21,156.00 gallons/day OWED
(21,156.00 gallons/day OWED) / (250 gallons/day) = 84.62 EDU OWED
(84.62 EDU's OWED) x (\$2,700 per EDU) = \$228,474.00 OWED

1.0 ERC was previously purchased by MPA of KW Limited Partnership (check#11076). This 1.0 ERC remains and captures bathroom use for employees and this effluent is tied into a valve pit and is separate from the linen washing machine and recycle system discharge which goes into a dedicated buffer tank. This 1.0 ERC remains with the property and was paid by MPA and no additional monies are due for this 1.0 ERC.

Original Linen ERC	12.22	12/6/2012 Paid
Expansion ERC	84.62	5/14/2014 *
Total ERC's =	<u><u>96.84</u></u>	

 NK
initial and date

Signature

* March 10, 2014 KW RU received check #1541 in the amount of \$54,000