

DOCKET NO. 070293-SU: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

WITNESS: Direct Testimony Of Kathy L. Welch, Appearing On Behalf Of Staff

DATE FILED: December 31, 2007

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FPSC-COMMISSION CLERK

DIRECT TESTIMONY OF KATHY L. WELCH

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Q. Please state your name and business address.

A. My name is Kathy L. Welch and my business address is 3625 N.W. 82nd Ave., Suite 400, Miami, Florida, 33166.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission as a Public Utilities Supervisor in the Division of Regulatory Compliance and Consumer Assistance.

Q. How long have you been employed by the Commission?

A. I have been employed by the Florida Public Service Commission since June 1979.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Business Administration degree with a major in accounting from Florida Atlantic University and a Masters of Adult Education and Human Resource Development from Florida International University. I have a Certified Public Manager certificate from Florida State University. I am also a Certified Public Accountant licensed in the State of Florida, and I am a member of the American and Florida Institutes of Certified Public Accountants. I was hired as a Public Utilities Analyst I by the Florida Public Service Commission in June of 1979. I was promoted to Public Utilities Supervisor on June 1, 2001.

Q. Please describe your current responsibilities.

A. Currently, I am a Public Utilities Supervisor with the responsibilities of administering the District Office and reviewing work load and allocating resources to

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1 complete field work and issue audit reports when due. I also supervise, plan, and conduct
2 utility audits of manual and automated accounting systems for historical and forecasted
3 financial statements and exhibits.

4

5 Q. Have you presented testimony before this Commission or any other regulatory
6 agency?

7 A. Yes. I have testified in several cases before the Florida Public Service
8 Commission. Exhibit KLW-1 lists these cases.

9

10 Q. What is the purpose of your testimony today?

11 A. The purpose of my testimony is to sponsor specific audit findings in the staff audit
12 report of K W Resort Utilities Corp. (utility) which addresses the utility's application for
13 increase in wastewater rates in Monroe County, Audit Control Number 07-233-4-1. This
14 audit report is filed with the testimony of Iliana Piedra and is identified as Exhibit IHP-1.
15 Specifically, my testimony addresses Findings 1 -9.

16

17 Q. Were these audit findings prepared by you?

18 A. Yes, I was responsible for these findings.

19

20 Q. Please describe the work you performed in this audit.

21 A. We sampled plant additions for the period January 1, 1998 through December 31,
22 2006 for compliance with the audit objectives. We were unable to audit 1984 to 1997
23 because after the stock transfer in 1998, the current owners did not obtain the records of
24 the previous owner. For the years 1998 - 2006, we verified that the utility properly
25 recorded retirements to plant when a capital item was removed or replaced. We toured

1 the utility plant sites to observe whether asset additions were completed and to ascertain if
2 asset retirements were properly recorded and sampled construction project additions and
3 the corresponding source documentation. We also verified that there have been no
4 changes to utility land since the last rate proceeding by searching the county's public
5 records. We sampled additions to CIAC and Advances for Construction for the period
6 January 1, 1998 through December 31, 2006 for compliance with the audit objectives and
7 scanned the utility's cash receipts records for unrecorded cash and property. We
8 reviewed developer agreements for unrecorded CIAC and traced utility CIAC schedules
9 to the general ledger and the utility's authorized tariff rates. We reviewed the agreement
10 with Monroe County to determine if it was properly reflected in the utility books and
11 reconciled plant in the tax return to plant in the ledger to determine if any contributed
12 property was not recorded. We traced the accumulated depreciation schedules to the
13 corresponding plant schedules from 1990 to 2006. We verified that the utility used
14 Commission authorized rates to depreciate its plant accounts by calculating a sample of
15 accumulated depreciation account balances to test for calculation errors and verified that
16 the utility properly recorded retirements to accumulated depreciation when the
17 corresponding plant was removed or replaced. We traced the accumulated amortization
18 of CIAC schedules to the corresponding CIAC schedules and verified that the utility used
19 Commission authorized rates to amortize its CIAC accounts by calculating a sample of
20 accumulated amortization account balances to test for calculation errors. We recalculated
21 a sample of accumulated amortization of CIAC account balances as of December 31,
22 2006. We recalculated the utility's working capital balance as of December 31, 2006.

23

24 Q. Please review the audit findings in the audit report for which you are testifying.

25 A. **Audit Finding No. 1**

1 Audit Finding No. 1 discusses the absence of records from 1984 through 1997.
2 The last rate case order used a test year of December 31, 1983. In Order No. 14010,
3 issued January 18, 1985, in Docket No. 850009-SU, the Commission approved a transfer
4 of the utility to Citicorp Real Estate, Inc. (Citicorp), which had acquired the utility assets
5 through foreclosure on the mortgage. In 1998, the current owners took over the utility
6 through a stock purchase. The new owners did not obtain the books and records from
7 Citicorp. We were not able to obtain supporting documentation for plant or CIAC
8 additions from 1984 to 1997. However, we were able to obtain depreciation and
9 amortization schedules back to 1990. We identified \$2,137,961.86 of unsubstantiated
10 plant additions for 1984 to 1997. Accumulated depreciation on these additions is
11 \$330,066.33. There were also \$867,668 of unsubstantiated additions to CIAC from 1984
12 to 1997. In addition, without the records we were unable to determine if there was any
13 unrecorded CIAC. The related additions to accumulated amortization are \$32,219.

14 **Audit Finding No. 2**

15 Audit Finding No. 2 discusses services provided by Green Fairways. Mr. William
16 L. Smith, president of KW Resort Utilities Corp., has a law practice and owns several
17 other businesses. The following businesses are managed through Green Fairways.

- 18 ◆ Key West Golf Course
- 19 ◆ Venetian Partners-office Building in San Francisco
- 20 ◆ KW Resort Utilities, Corp.
- 21 ◆ 900 Commerce-offices in Oakbrook, Illinois
- 22 ◆ Portland Court-office building in Addison
- 23 ◆ Rail Golf Course in Springfield, Illinois
- 24 ◆ Deer Creek Golf Course in University Park, Illinois

25 Three employees are paid by Green Fairways. Mike Misheck runs the golf

1 courses and Key West Golf Club. Bill Ski runs the office buildings. Mr. Smith oversees
2 all the businesses and runs KW Resort.

3 Mr. Smith performs multiple tasks for the utility and indicates that 1/3 of his time
4 is spent on the utility. Mr. Smith manages many companies and there are no time records
5 to support the allocation of his time spent on the utility.

6 In 2006, Green Fairways charged the utility \$60,000 as a management fee. It also
7 charges 10% of large construction projects for the management of the projects. Our
8 review found the following project management fees:

- 9 ♦ 2002 \$107,198.07 fiberglass liner for collection system
- 10 ♦ 2003 \$194,376.80 fiberglass liner for collection system
- 11 ♦ 2006 \$124,983.76 advanced wastewater treatment plant expansion project

12 In our audit report, we prepared an analysis of the management fee compared to
13 Mr. Smith's salary.

14 **Audit Finding No. 3**

15 Audit Finding No. 3 discusses Key's Environmental Service. This company was
16 started by Mr. Smith's son-in-law to service KW Resort Utilities. Key's Environmental
17 also has contracts to service some of the privately owned lift stations. Key's
18 Environmental has its offices in the utility-owned trailer. It pays the utility \$24,000 for
19 the use of this trailer. It also uses the utility-owned trucks but pays for its own gasoline
20 and vehicle maintenance.

21 Key's Environmental purchases supplies, chemicals, and sludge hauling and then
22 bills the utility for these services. Related party charges to a utility require additional
23 review to determine whether the related party bills the utility at actual cost and does not
24 use the affiliate company to increase prices to the utility. We attempted to determine if
25 Key's Environmental increases the costs for these items. We compared a sample of the

1 costs to prices on the internet and included information in the audit work papers for
2 further review.

3 Some of the Key's Environmental invoices were capitalized and some expensed.
4 For the period 2003 -- 2006, the utility capitalized \$252,690.08 for hookup coordination
5 services. These duties included five field visits and a hydrostatic test of the PVC lateral
6 from the building to the point of connection. Other costs included site preparation work
7 for the new clarifier, power poles, effluent lines, relocation of the chlorine tank, pumps,
8 surge tank, and a blower.

9 The utility has a contract with Key's Environmental that requires two full time
10 operators and an operations manager (who is to work a minimum of eight hours a day and
11 two hours a day on the weekends.) The contract includes customer relations, periodic
12 inspections, minor maintenance, daily pumping stations inspections, preventative
13 maintenance programs, and monitoring programs for collection systems, reclaimed water
14 lines, meters, pumps, and blowers. Key's Environmental reads the meters and maintains
15 an answering service and dispatch. The contract also includes sampling, testing,
16 supervision, and inspection of new customer tie in's.

17 In 2006, the utility expensed \$450,774.11 for invoices from Key's Environmental.
18 Included in the chemicals and supplies charges of \$43,202.75 is an amount of \$1,313.65
19 for lab testing. Sampling and testing was supposed to be part of the contract. These
20 charges should be removed. There is also \$15,000 of hookup fees charged that should be
21 transferred to plant.

22 However, the operations contract states that supervising and inspecting new tie ins
23 is part of the contract. The description of what Key's Environmental is doing for the
24 connection fee appears to be more extensive. The Commission should consider if the
25 work being done exceeds what is in the contract. If the additional charges should be

1 considered as part of the basic contract, the \$252,690.08 plus the misclassified \$15,000 or
2 \$276,690.08 should all be removed from plant.

3 In addition, we requested additional information on \$51,662.97 of items that
4 appeared to be capital items. We did not receive any information before we wrote the
5 audit report.

6 Also included in the expense accounts was a bill for \$2,082.31 for damage to a pit
7 vacuum that was caused by Waste Management. This is expected to be recovered from
8 Waste Management and should be removed from expenses. There was also an invoice for
9 the Oceanside Marina of \$995.30 that is supposed to be reimbursed by the County.

10 To determine the reasonableness of the monthly maintenance fee, we reviewed an
11 estimate the utility received from US Water for a monthly operations fee of \$33,171.34.
12 The contract appeared to include similar terms but had 1.5 licensed operators and Key's
13 Environmental has two. The Key's Environmental contract contains provisions for a lead
14 mechanic and a field tech that are not separately shown on the Key's Environmental
15 contract. However, Key's Environmental has more employees than just the two licensed
16 operators.

17 The utility also provided a contract from 2002 with AirVac Inc. for the same
18 services performed by Key's Environmental. The 2002 contract was for \$5,500 a month
19 for operation of the air vac system and \$60 an hour for emergency service. The utility
20 usually pays Key's Environmental \$3,333 a month for operation of the air vac system and
21 \$90 an hour for emergency service

22 A summary of the adjustments follows:

23	Remove hookup fees	(15,000.00)
24	Remove testing fees	(1,313.65)
25	Remove amount due from Waste Management	(2,082.31)

1 Remove amount due from County (995.30)

2 (19,391.26)

3 Exhibit K1.W-2 includes copies of specific audit work papers that include the
4 contract with Keys Environmental, Inc. The exhibit also includes the estimate the utility
5 received from US Water.

6 **Audit Finding No. 4**

7 Audit Finding No. 4 discusses franchise fees. In 1999, the utility recorded
8 \$125,364.06 as franchise fees. These charges were to support proposed laws to require
9 people to hook up to the utility system. Included in this amount is \$81,444.62 for
10 engineering fees. These fees do not appear to relate to franchises but instead to design of
11 the new treatment plant. If the \$81,444.62 of engineering fees were transferred to
12 treatment and disposal plant, it would be depreciated at 5.56% instead of 2.5%. I
13 recommend that depreciation expense should be increased by \$2,492.21 a year. In
14 addition, I recommend that the accumulated depreciation should be increased for 7.5
15 years of adjustments to the depreciation expense, or \$18,691.54, and that average
16 accumulated depreciation should be increased by \$17,445.44.

17 **Audit Finding No. 5**

18 Audit Finding No. 5 discusses land. Schedule A-4 of the Minimum Filing
19 Requirements (MFRs), a summary of plant by year, shows a reduction to land in 1989 for
20 \$152,255. The filing correctly increased land for the same amount in the pro forma
21 adjustments. This brings the land account back to the ordered balance and the amount
22 that matches the documentary stamps for the land purchase. However, no adjustment was
23 made for the other side of the entry that reduced land. The debit to the original entry was
24 a debit to three plant accounts. Since land was increased to its original value, structures
25 should be reduced by \$38,063.56, collection sewers by \$38,064.11, and plant sewers by

1 \$76,126.96. In 1998, plant sewers were incorporated into account 380, treatment and
2 disposal equipment. Collection sewers were incorporated into account 360, force mains.

3 I recommend that average plant should be reduced by \$152,255, average
4 accumulated depreciation should be reduced by \$71,274.36, and depreciation expense
5 should be reduced by \$6,765.59.

6 **Audit Finding No. 6**

7 Audit Finding No. 6 discusses retirements. Schedule A-3 of the MFRs, a schedule
8 of adjustments to rate base, increases plant for the contract with Siemens for the work
9 done on the Advanced Wastewater Treatment (AWT) plant expansion. As part of the
10 expansion, a clarifying unit was installed. To make room for this unit, two drying beds
11 and a sludge thickening unit were removed. The adjustment to increase plant does not
12 take into account the removal and retirement of these items. We could not determine the
13 original cost of these items from the records we have in order to determine the entry
14 needed to the ledger. Since retirements decrease plant and increase accumulated
15 depreciation, there is no effect on rate base. The utility plans to adjust for the retirement
16 when the plant is completed. There may be a small effect on accumulated depreciation
17 and depreciation expense if these items are still being depreciated.

18 **Audit Finding No. 7**

19 Audit Finding No. 7 discusses accumulated depreciation. Commission Rule 25-
20 30.140, F.A.C. (Depreciation) was not in effect when the utility had its last rate case. The
21 rule allows a utility to implement guideline depreciation rates at any time. However, if
22 guideline rates are implemented for any account, they must be implemented for all
23 accounts. Further, when guideline depreciation rates have been implemented, the rates
24 shall not be changed unless approved by the Commission.

25 The utility did not follow Rule 25-30.140, F.A.C. until the year 2000. However, in

1 implementing the rule, some of the rates used were different than the rule rates. In
2 addition, we found an error in the 2006 formula for the Tools account. The rule also
3 requires that CIAC be segregated by type of addition and that these additions be
4 separately amortized based on type. Since we have not located any contributed property,
5 it appears reasonable that the utility left all the CIAC in one account for capacity fees.
6 However, according to the rule, cash should be amortized using a composite rate. In
7 2000, 2001, and 2002, the utility mistakenly left out certain accounts in calculating its
8 composite rate. Because of these errors, we have recomputed depreciation using the
9 proper rule rates. Because the revised depreciation rates also changes the composite rate
10 for amortization of CIAC, we recalculated the amortization. The audit report includes
11 schedules showing these calculations of accumulated depreciation, depreciation expense,
12 accumulated amortization, and amortization expense.

13 Based on our adjustments for these depreciation and amortization rates, I
14 recommend that average Accumulated Depreciation should be increased by \$251,681.06,
15 average Accumulated Amortization should be increased by \$99,481.92, and depreciation
16 expense should be increased by the net of \$16,021.42.

17 **Audit Finding No. 8**

18 Audit Finding No. 8 discusses CIAC. The utility included both CIAC and
19 Customer Advances for Construction in rate base. The advance account was created
20 because the utility entered into an agreement with the County that provided for the
21 County to pay the utility for the new plant additions. The utility received \$3,886,674.23
22 in twelve payments from the County for the addition. These payments were recorded in
23 Advances for Construction. As part of the agreement, when the utility received payments
24 from the individuals hooking to the new vacuum system, the utility would collect and
25 record the \$2,700 per Equivalent Residential Connection (ERC) in the CIAC account and

1 then return to the county \$2,100 per ERC. The \$600 per ERC or \$900,000 would be kept
2 by the utility also and should be recorded in CIAC. The tariff allows for \$2,700 per ERC
3 as a capacity charge.

4 At the end of 2005 the utility had received \$1,009,477.04 in payments from
5 customers for the CIAC. The utility had paid the County \$586,818.36. The utility then
6 gave the County an advance of \$242,000.

7 In 2005, \$4,100 was still owed to the County for the additions and offset the
8 advance of \$242,000. In 2006, the utility then received \$261,052 from additional
9 customers of which \$225,568.45 offset the \$242,000 advance. A balance of \$12,331.55
10 remained as an advance at the end of 2006. In 2007, the County began a program where
11 the customers can pay the connection fee through their tax bills.

12 In addition to the \$3,886,674.23 received from the County, the County paid
13 \$146,500 for design and drawings. This amount was recorded in CIAC. The County also
14 paid \$707,000 toward the \$600 per customer of additional CIAC that the utility is keeping
15 over and above the tariffed amount and recorded this in CIAC even though all the
16 customers have not yet hooked up.

17 The utility should make a journal entry to transfer the \$707,000 to the advance
18 account. The ledger also needs to be adjusted for the portion of the \$600 already received
19 that has not been recorded in CIAC and the excess received from the County in addition
20 to the advance amount.

21 Before the County started collecting the CIAC itself, the utility collected
22 \$908,101.04 in CIAC from the customers and only paid the county back \$715,110.81.
23 The additional \$192,990.23 that did not have to be repaid to the county should have been
24 removed from the advance and transferred to CIAC. The County then paid the remainder
25 of the \$900,000 by giving the utility a check for \$707,000 in advance of the customers

1 signing up. The utility booked the \$707,000 in CIAC instead of the advance account.
2 There is a 9.77 difference that remains. Since the County took over and until the end of
3 2006, 37.55 ERC's were paid for. At \$600 each, \$22,530 of the \$707,000 advance should
4 have been removed from advances and transferred to CIAC.

5 Finally, the utility received and booked more in the advance account than it
6 actually owes to the County and this amount needs to be adjusted. This amounts to
7 \$92,999.11. There is no effect on the filing because both accounts are included in their
8 entirety.

9 **Audit Finding No. 9**

10 Audit Finding No. 9 discusses temporary cash investments. Cash balances
11 included in the working capital allowance for the period ended December, 2006 include
12 several sub-accounts. Our review of these accounts from the general ledger revealed that
13 several of them earned interest. Generally, interest-bearing funds are excluded from
14 working capital to prevent subsidization of the company by the ratepayers. (See Order
15 No. 11498, issued January 11, 1983, in Docket No. 820150-EI, In re: Petition of Gulf
16 Power Company for an increase in its rates and charges, and Order No. PSC-97-1225-
17 FOF-WU, issued October 10, 1997, in Docket No. 970164-WU, In re: Application for
18 increase in rates in Martin County by Hobe Sound Water Company.) I recommend the
19 temporary cash investments be removed from working capital, which would reduce the
20 13-month average Working Capital in rate base by \$168,264.53.

21

22 Q. Does that conclude your testimony?

23 A. Yes.

24

25

DOCKET NO. 070293-SU: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

WITNESS: Direct Testimony Of Kathy L. Welch, Appearing On Behalf Of Staff

EXHIBIT KLW-1: History of Testimony Provided by Kathy L. Welch

- In re: Application for approval of rate increase in Lee County by Tamiami Village Utility, Inc., Docket No. 910560-WS
- In re: Application for transfer of territory served by Tamiami Village Utility, Inc. in Lee County to North Fort Myers Utility, Inc., cancellation of Certificate No. 332-S and amendment of Certificate 247-S; and for a limited proceeding to impose current rates, charges, classifications, rules and regulations, and service availability policies, Docket No. 940963-SU
- In re: Application for a rate increase by General Development Utilities, Inc. (Port Malabar Division) in Brevard County, Docket No. 911030-WS
- In re: Dade County Circuit Court referral of certain issues in Case No. 92-11654 (Transcall America, Inc. d/b/a ATC Long Distance vs. Telecommunications Services, Inc., and Telecommunications Services, Inc. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the Commission's jurisdiction, Docket No. 951232-TI
- In re: Application for transfer of Certificates Nos. 404-W and 341-S in Orange County from Econ Utilities Corporation to Wedgefield Utilities, Inc., Docket No. 960235-WS
- In re: Application for increase in rates and service availability charges in Lee County by Gulf Utility Company, Docket No. 960329-WS
- In re: Fuel and purchased power cost recovery clause and generating performance incentive factor, Docket No. 010001-EI
- In re: Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P., Docket No. 020010-WS
- In re: Application for rate increase in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida, Docket No. 020071-WS
- In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company, Docket No. 060038-EI

DOCKET NO. 070293-SU: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

WITNESS: **Direct Testimony Of Kathy L. Welch**, Appearing On Behalf Of Staff

EXHIBIT K LW-2: Audit Finding 3 Work Papers

KW RESORT UTILITIES
RATE CASE

Test Year Ended 12/31/2006
Docket No. 070293
Audit Control No. 07-233-4-1

Title: *Construction*

Docket No. 070293-SU
Exhibit KLV-2 (Page 1 of 42)
Audit Finding 3 Work Papers

10/2/07
10/2/07

This contract relates to
703510000 - *for base system Op.*
Req 4 707110000 - *for*

39,000,000

212,238.43

252,238.39

17.21
17.51

MANAGEMENT AGREEMENT

Between

KW RESORT UTILITIES CORP.,
A Florida corporation,

And

KEYS ENVIRONMENTAL, INC.

Dated as of December 13, 2004

For Req 4 KFI is responsible for operation & maintenance of the Utility Treatment Plant including licensed & qualified T. plant operators, connection of new customers field response to customer service requests and responses to various state agencies.

43-1
1-21
1-1 of 20 shares no compensation. The co proekted the Amendment which extends the contract (no compensation)

40									
41	Source:	Req 4							
42									<i>43-1</i>
43	See	<i>43-1</i> <i>1-21</i> <i>2</i>	for a proposal received for the same						<i>7-2#</i>
			type of	SVS	by U.S. water.	<i>33,171,34</i> <i>338,050</i>			<i>min. 10+M</i> <i>only</i>

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title: *2006-2007 Rate Case*

Docket No. 070293-SU
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10/22/07
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43	See 43-1	for a proposal received for the same	7-2#						
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	2								

43-1
 33,171,34 min. 10+11 only
 398,050

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12-31-2016

Docket No. 070293

Audit Control No. 07-233-4-1

Title

10/22/16
ITB

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		1-21	type of SVS by U.S. water.	83,171,34	mm. 10+1				
		2		308,050					only

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12 31 2006

Docket No. 070293

Audit Control No. 07-2334-1

Title

Locket No. 070293-SU
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Audit Finding 3 Work Papers

10/2/07
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TABLE OF DEFINED TERMS

The following capitalized terms are defined in the respective Sections of the Agreement identified below:

- "Agent" as such term is defined in the Preamble to the Agreement.
- "Agent's, Authorized Supervisor" as such term is defined in Section 1.02 of the Agreement.
- "Agent's Indemnified Persons" as such term is defined in Section 3.01 of the Agreement.
- "Agent's Independent Contractors" as such term is defined in Section 3.01 of the Agreement.
- "Agent's Termination Notice" as such term is defined in Section 5.02 of the Agreement.
- "Approved Budget" as such term is defined in Section 2.03 of the Agreement.
- "Bank" as such term is defined in Section 2.26 of the Agreement.
- "Budget" as such term is defined in Section 2.03 of the Agreement.
- "Claims" as such term is defined in Section 3.01 of the Agreement.
- "Customers" as such term is defined in Section 2.06 of the Agreement.
- "Employees" as such term is defined in Section 2.13 of the Agreement.
- "Excavation Work" as such term is defined in Section 2.11 of the Agreement.
- "Fiscal Year" as such term is defined in Section 2.03 of the Agreement.
- "Major Work" as such term is defined in Section 2.11 of the Agreement.
- "Management Fee" as such term is defined in Section 4.01 of the Agreement.
- "Office Clerk" as such term is defined in section 2.13 of the Agreement.
- "Operating Account" as such term is defined in Section 2.26 of the Agreement.
- "Operations Manager" as such term is defined in Section 2.02 of the Agreement.

40							
41	Source	Req. 4					
42						43-1	
43	See	43-1	for a proposal received for the same	7-2#			
		1-21	type of svcs by U.S. water.		23,171,34	min. 10+M	
		2			398,050	only	

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233,4-1

Title

Contract with City

10/22/07

TJP

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Exhibit KLW-2 (Page 5 of 42)
Audit Finding 3 Work Papers

PPL

"Owner" as such term is defined in the Preamble to the Agreement.

"Owner's Affiliates" as such term is defined in Section 6.03 of the Agreement.

"Owner's Indemnified Persons" as such term is defined in Section 3.01 of the Agreement.

"Owner's Termination Notice" as such term is defined in Section 5.02 of the Agreement.

"Permits" as such term is defined in Section 2.18 of the Agreement.

"Property" as such term is defined in the Recitals to the Agreement.

"Regulations" as such term is defined in Section 2.15 of the Agreement.

"Regulatory Agencies" as such term is defined in Section 2.13 of the Agreement.

"Related Party" as such term is defined in Section 4.02 of the Agreement.

"Reserve" as such term is defined in Section 2.21 of the Agreement.

"Shut-Down Election" as such term is defined in Section 5.05 of the Agreement.

"Shut-Down Notice" as such term is defined in Section 5.05 of the Agreement.

"Start-Up Period" as such term is defined in Section 2.03 of the Agreement.

"System" as such term is defined in the Recitals to the Agreement.

"System Personnel" as such term is defined in Section 2.13 of the Agreement.

"Utility Agreement" as such term is defined in Section 2.05 of the Agreement.

"Wastewater Reuse Agreement" as such term is defined in Section 2.04 of the Agreement.

41	Source	Req 4							
42									
43	See	43-1 1-21 2	for a proposal received for the same	7-2#	43-1				
			type of svcs by U.S. water.			83,171,34		min. 10+M	
						398,050		only	

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*10/22/07
TAP*

MANAGEMENT AGREEMENT

THIS AGREEMENT is made as of the 31st day of December, 2004, between KW RESORT UTILITIES CORP., a Florida corporation (the "Owner") and KEYS ENVIRONMENTAL, INC., a Florida corporation (the "Agent ")

WITNESSETH

WHEREAS, the Owner owns fee title to that certain parcel of real property located on Stock Island, Monroe County, Florida known as 6630 Front Street, together with the buildings and improvements now and hereafter existing thereon and thereunder (the "Property"), including but not limited to a waste water collection and transmission system and a waste water treatment system (as now and hereafter existing, the "System"); and .

Vacuum Pits

WHEREAS, the System currently consists of a 499,000 gallon per day waste water treatment plant, related effluent disposal injection wells, approximately 40,000 feet of waste water collection system, twelve (12) waste water pumping stations, and appurtenant force mains, and Reclaimed Water Lines (as hereinafter defined) operated pursuant to a Certificate of Convenience and Necessity issued to Owner by the Florida Public Service Commission; and

WHEREAS, Agent has engaged and is experienced in and has all licenses, permits and authorizations required for the operation, maintenance, and management of the System and the Property; and

WHEREAS, Owner desires to engage Agent as an independent contractor to operate, maintain and manage the System and the Property, and Agent desires to accept such engagement, all subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

**ARTICLE I.
APPOINTMENT**

1.01. Appointment. Subject to the terms and conditions hereinafter set forth, Owner hereby appoints Agent and Agent hereby accepts the appointment as exclusive managing agent of the System and the Property.. By its acceptance of this appointment, Agent represents and warrants that (i) it is duly organized, validly existing, in good standing under the laws of the State of Delaware, is qualified to do business and in good standing under the Laws of the State of Florida, and has all requisite power and authority to enter into and perform its obligations under this Agreement, (ii) the person signing this Agreement for it

41	Source: Reg 4				
42					43-1
43	See 43-1	for a proposal received for the same	1-21		7-27
	1-21	type of svs by u.s. water.	33,171,34	many	10+1 only
	2		348,050		

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

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is duly authorized to execute this Agreement on its behalf, and (iii) it has secured and will keep in effect during the term hereof all necessary licenses, permits and authorizations to enable Agent, and all agents and employees acting on its behalf, to perform all of Agent's duties under this Agreement and shall notify owner immediately should any such license, permit or authorization no longer be in effect or in good standing.

1.02. Participation of Agent's Authorized Supervisor. In order to perform its duties hereunder, and as a material inducement to Owner to enter into this Agreement, Agent agrees that it will provide throughout the term of this Agreement the services of Chris Johnson or another employee of Agent reasonably acceptable to Owner ("Agent's Authorized Supervisor") to diligently supervise the management, maintenance and operation of the Property and the System. At all times throughout the term of this Agreement, Agent represents, warrants and covenants to Owner that Chris Johnson shall be the President of Agent. Agent further agrees that throughout the term of this Agreement, Agent's Authorized Supervisor shall visit the Property not less than two (2) times per month and shall, in addition to performing any other services required in fulfillment of obligations under this Section 1.02 and review and approve of any Budget prior to submission of same to owner in accordance with Section 2.03. In the event Chris Johnson shall leave the employ of Agent or if Agent desires to substitute another employee in place of Chris Johnson as Agent's Authorized Supervisor, Agent shall immediately notify Owner and Owner shall have the right, in its reasonable discretion, to approve the new Agent's Authorized Supervisor and shall be given the opportunity to interview all candidates for the position of Agent's Authorized Supervisor.

ARTICLE II.
RESPONSIBILITIES OF AGENT

2.01. Responsibilities. Agent agrees to operate, manage and maintain the Property and the System in a diligent, careful and vigilant manner in compliance with all applicable laws and regulations and in accordance with the provisions of this Agreement. Without limiting the generality of the foregoing, the authorities, duties and responsibilities of Agent in connection with the operation, management and maintenance of the Property and the System shall be as hereinafter set forth in this Agreement.

2.02. Operations Manager. Agent shall employ at least two (2) full-time licensed waste water treatment plant operator approved by Owner experienced in the management and operation of systems similar to the System (the "Operations Manager"), whose services shall be primarily devoted to the operations of the System. The Operations Manager shall report to Doug Carter, or another person satisfactory to Owner, during the term of this Agreement. The Operations Manager shall spend not less than eight (8) hours per weekday and, to the extent required in coordination with the System Personnel (as defined below), one visit of not less than two (2) hours per weekend day in the execution of his or her duties. In the event the Operations Manager shall leave the employ of Agent, Agent shall immediately notify Owner and

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41		Source	Req. 4																
42																	43-1		
43		See	43-1	for a proposal received for the same	7-27														
			1-21	type of SWS by U.S. water.		\$3,171,34													
			2			348,656													

KW RESORT UTILITIES

RATE CASE

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Audit Finding 3 Work Papers

Owner shall have right to approve the new Operations Manager and shall be given the opportunity to interview all candidates for the position of Operations Manager.

2.03. Approved Budget. (a) Within thirty (30) days of the execution of this Agreement and on or before December 1st of each year thereafter for so long as this Agreement or any renewals thereof shall remain in full force and effect, Agent shall submit to Owner:

- (1) A schedule setting forth all approved tariffs then in effect;
- (2) A schedule setting forth all established rate classes, then in effect;
- (3) A schedule setting forth an inventory of Owner's equipment and personal property at the Property or relating to the System based on an inventory performed with the assistance of Owner or Owner's representative;
- (4) A schedule setting forth the identity of all current Customers and the type(s) of service consumed by each Customer;
- (5) A schedule setting forth all material terms and provisions of all leases, including capital leases, affecting the Property or any portion thereof and, if applicable, a full payment amortization schedule for the term of any such lease;
- (6) A schedule setting forth the identity of all trade creditors providing supplies or services with respect to the Property and the System or the operation thereof, the obligations owed to such creditors and the material terms and provisions with respect to such obligations;
- (7) A month-by-month budget (the "Budget") for the current fiscal year which shall commence January 1, 2005 and end December 31, 2005 and for every subsequent fiscal year thereafter commencing January 1 and ending December 31 (each, a "Fiscal Year") for as long as this Agreement or any renewals thereof shall remain in full force and effect, showing, in detail in form and substance satisfactory to Owner:
 - (i) proposed capital expenditures for each month, including, but not limited to, expenditures for roof, parking lot, System equipment replacement or alteration, Major Work and Excavation Work (as such terms are defined in Section 2.11) and capital expenditures to the System or the Reclaimed Water Lines (as hereinafter defined) in order to comply with the provisions of the Wastewater, Reuse Agreement (as hereinafter defined), together with such studies, reports or inspections as may be reasonably required indicating the need for such capital expenditures;

41	Source	Req 4								
42									43-1	
43	See	43-1	for a proposal received for the same	1-21	type of	SYS by U.S. Water.	\$3,171,34	min.	10+M	only
		2					398,050			

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

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- (ii) proposed operating expenditures for each month, including, but not limited to, proposed expenses to be incurred for insurance, utilities, real estate taxes, waste removal, permits, licenses, authorizations, repairs and maintenance (including, without limitation, repairs to or replacement of Reclaimed Water Lines), jet rodding of sewer lines and dumping, hauling and disposal of sewage; and
- (iii) proposed income for each month from all sources in connection with the use and operation of the Property and the System, including, but not limited to, income from Capacity Reservation Fees and Connection Charges payable to Owner under the Utility Agreement (as such terms are hereinafter defined), and income from Customer charges, fees, assessments, prices and penalties, and any other sources.

(b) In the event Owner shall not approve all or any portion of the Budget, Agent shall promptly revise same in accordance with Owner's requests and shall resubmit the revised Budget or portions thereof to Owner for its approval. In no event shall any Budget be effective prior to receipt of the written approval of Owner. The Budget, as approved by owner, is sometimes hereinafter referred to as the "Approved Budget".

(c) During the period beginning with the execution of this Agreement and ending thirty (30) days subsequent thereto (the "Start-Up Period"), Agent shall not make any expenditures or enter into any contracts or agreements with respect to the Property without the prior written consent of Owner.

2.04. Wastewater Reuse Agreement. Reference is made to that certain Wastewater Reuse Agreement dated as of December 13, 1994 between Owner and Key West Country Club, Inc., recorded in Official Records Book 1345, Page 612 of the Public Records of Monroe County, Florida, ~~which is annexed hereto as Exhibit B and incorporated herein by this reference and made a part hereof (the which is "Wastewater Reuse Agreement"~~. All capitalized terms used in this Section 2.04 and not otherwise defined elsewhere in this Agreement, shall have the respective meanings assigned thereto in the Wastewater Reuse Agreement. Agent shall provide Reclaimed Water to the Customer in accordance with the terms and provisions of the Wastewater Reuse Agreement and shall otherwise strictly comply with all-of the terms and provisions. of the Wastewater Reuse Agreement relating to the operation of the Treatment Plant and Reclaimed Water Lines and the delivery of Reclaimed Water to the Customer. Agent shall immediately notify Owner in writing of any default by the Customer under the Wastewater Reuse Agreement.

41	Source	1094					
42						93-1	
43	See	43-1	for a proposal received for the same	1-21	2	7-27	
			type of SVS by U.S. Water.	33,171.34	348,050	min. 10+1	only

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-1-1

Title: *Contract with Club*

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~~2.05. Utility Agreement. Reference is made to that certain Utility Agreement dated as of December 13, 1994 between Owner and Key West Country Club Development, Inc., recorded in Official Records Book 1370, Page 1749 of the Public Records of Monroe County, Florida, which is annexed hereto as Exhibit C and incorporated herein by this reference and made a part hereof (the "Utility Agreement"). All capitalized terms used in this Section 2.04 and not otherwise defined elsewhere in this Agreement, shall have the respective meanings assigned thereto in the Utility Agreement. Agent shall collect and give receipt for all Connection Charges and Capacity Reservation Charges due and payable to Owner under the Utility Agreement and shall deposit same in the Operating Account (as defined in Section 2.26 hereof) and shall otherwise strictly comply with all of the terms and provisions of the Utility Agreement relating to the operation of the Service Company. Agent shall immediately notify Owner in writing of any default by Developer under the Utility Agreement.~~

~~2.06. Collections. Agent shall promptly calculate and bill customers of Owner, including, without limitation, the "Customer" under the Wastewater Reuse Agreement and any "Customer" under the Utility Agreement (collectively, the "Customers") on a monthly basis or as otherwise acceptable to owner in accordance with approved tariffs, the Wastewater Reuse Agreement and the Utility Agreement, as applicable, and diligently demand, collect, receive and give receipt for any and all charges, fees, assessments, prices or penalties charged to Customers. In furtherance of its obligations under this Section, Agent shall deliver reminder door tags in accordance with applicable laws and interrupt service to collect delinquent bills from Customers through the installation of suitable service control fixtures where not presently provided or otherwise in accordance with approved tariffs. Agent shall keep Owner informed of its collection efforts and shall perform its collection efforts in compliance with applicable laws. In addition, Agent shall identify and collect any additional income due from Customers arising from or in connection with the use and operation of the System and the Property, whether such income is now or hereafter generated. All monies so collected shall be deposited in the operating Account (as hereinafter defined in Section 2.26). Agent shall not "write-off", forgive or otherwise defer any income without having first obtained the written approval of Owner. Unless prohibited by law or otherwise directed by Owner, all charges, fees, assessments, prices and penalties collected from Customers shall be promptly deposited into Operating Account and so reported.~~

2.07. Customer Relations. Subject to the Approved Budget and in accordance with approved tariffs, Agent shall promptly respond on behalf of Owner to inquiries from Customers and shall promptly furnish written and oral replies on behalf of Owner to inquiries from the customer relations departments of the Florida Public Service Commission and other consumer service agencies having jurisdiction over Owner. Agent shall maintain a written log of all contacts with Customers. Agent shall handle all service disconnection requests in a timely and professional manner.

41	Service	Req 4							
42								43-1	
43	See	43-1	for a proposal received for the same	1-21	7-27				
		2	type of SWS by U.S. water.	83,171.34	398,050				

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12-31-2006

Docket No. 070293

Audit Control No. 07-233-4-1

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2.08. Enforcement. Agent shall secure, as fully as practicable, the compliance of all Customers with all rules and regulations affecting the System; keep Customers informed of all rules and regulations affecting the System; and receive, promptly consider, and act upon or deny service requests by Customers and maintain records showing all such requests, complaints and other communications and the action taken with respect to each such request. Complaints by Customers of a material nature shall, after prompt and thorough investigation by Agent, be reported to Owner with appropriate recommendations; provided, however, that if any such complaints may give rise to any criminal liability or material adverse financial consequences on the part of either Agent or Owner, Agent shall immediately give oral notification thereof to Owner, to be followed within twenty-four (24) hours thereafter by a written memorandum outlining the factual basis of such complaint to the extent known to Agent, together with a copy of any written communication(s) received regarding such complaint and any appropriate recommendations.

2.09. Routine Maintenance and Repairs. Subject to any limitations imposed by Owner in this Agreement, the provisions of the Approved Budget, or otherwise, Agent shall monitor the System and cause the Property and the System to be maintained in good operating condition in accordance with the Permits (as defined in Section 2.18), approved tariffs and in compliance with all applicable laws and in compliance with the provisions of the Wastewater Reuse Agreement and the Utility Agreement, as applicable, such maintenance to include but not be limited to (1) performing (or causing to be performed) periodic inspection and minor maintenance required to keep all mechanical equipment associated with the System in good operating condition, including, without limitation, routine lubrication and maintenance as recommended by manufacturers of the applicable equipment, (2) inspecting wastewater pumping stations on a daily basis (seven days per week) for proper operation and lubrication, (3) investigating all necessary preventative maintenance programs, submitting to Owner recommendations and proposals for such programs and performing such necessary preventive maintenance as shall be approved by Owner, (4) monitoring collection systems, including, without limitation, lift stations, gravity lines and manholes, (5) monitoring Reclaimed Water Lines, (6) monitoring and maintaining meters, control panels, motors, pumps, blowers and related equipment, (7) purchasing supplies, materials and services, (8) executing contracts in the name of Owner (as agent on behalf of Owner) for utilities and other necessary and advisable services in accordance with the terms of the Approved Budget, (9) paying all bills in connection with such activities and (10) regularly inspecting the physical condition of the Property and the System.

2.10. Jet Rodding of Sewer Lines: Sewage Pumping.

(a) Agent shall perform jet rodding of sewer lines at an additional cost to Owner equal to \$1.00 per linear foot [or]¹ \$100.00 per hour for on-site services by System Personnel associated therewith (such as pump station maintenance). Agent shall maintain accurate records regarding the performance of jet rod ding of sewage lines and shall submit such records to Owner on a monthly basis together with any invoices for jet rodding services performed during the preceding month.

¹ Clarify whether both costs will be charged.

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41		Source	Req 4						
42								43-1	
43		See	43-1	for a proposal received for the same	7-27				
			1-21	type of svs by u.s. water.		\$3,171,34	min. 10+1		
			2			398,050	only		

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title *Proposed Rate Case*

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(b) Agent shall pump sewage and haul sewage to the Cudjoe Key Transfer Station at an additional cost to Owner equal to \$11 cents per gallon of sewage for pumping and \$0.05 cents per gallon of sewage for hauling. Owner acknowledges that the foregoing pumping and, hauling fees shall remain in effect throughout calendar year 2005, but that such fees may increase in calendar year 2006, provided, however, that any fees for calendar year 2006 shall not exceed the most favorable fees for such services that Agent charges to any of its customers. If any raw sewage (from servicing a pump sump or full manhole) can lawfully be disposed of at the waste water treatment plant or in a manhole located on the Property, Agent shall pump, haul and dispose of such raw sewage at an additional cost to Owner equal to \$0.05 cents per gallon of raw sewage. Owner acknowledges that the foregoing pumping, hauling and disposal fees shall remain in effect throughout calendar year 2005, but that such fees may increase in calendar year 2006, provided, however, that any fees for calendar year 2006 shall not exceed the most favorable fees for such services that Agent charges to any of its customers. Agent shall maintain accurate records regarding the pumping, hauling and disposal of sewage and shall submit such records to Owner on a monthly basis together with any invoices for sewage dumping, hauling and disposal services performed during the preceding month.

(c) The compensation payable to Agent pursuant to this Section 2.10 shall be paid by Owner to Agent pursuant to invoices provided by Agent and shall not, without the prior written consent of Owner, be paid by Agent to itself from the Operating Account.

2.11. Supervision of Work. Subject to any limitations imposed by Owner in this Agreement, the provisions of the Approved Budget, or otherwise, Agent shall diligently supervise the following work performed by third parties at any time during the term of this Agreement: (a) all work in the nature of major repairs and to the System and any additions and alterations to the System ("Major Work"), (b) any work requiring physical excavation or uncovering of mains, services, laterals or similar facilities ("Excavation Work"); provided, however, that Owner acknowledges that Agent's obligations under this Section 2.11 shall not extend to the obligations of a general contractor. All Major Work and Excavation Work shall be subject to the prior written approval of Owner. Agent shall recommend contractors and subcontractors to perform all Major Work and Excavation Work and any other work Agent is not equipped or authorized to perform under this Agreement and shall not engage the services of any such contractor or subcontractor without the prior written approval of owner.

2.12. System Testing and Reporting. Agent shall perform periodic sampling of raw and treated waste water as required by the Regulatory Agencies, the Regulations or the Permits (all as defined herein), including, without limitation, daily sampling of PH, CL2, alkalinity, settleable solids, dissolved oxygen and flows and periodic testing of treated effluent for Seawater Intrusion (as defined in the Wastewater Reuse Agreement), and shall prepare and execute (except where applicable law-requires execution by an officer of Owner) all periodic inspection and monitoring reports required by Regulatory Agencies (as defined in Section 2.13), including, without limitation, any Florida Department of Environmental Protection discharge monitoring reports as may be required pursuant to the terms of the operating permit for the System. Agent shall, in accordance with the

41	Source	Req 4			
42					93-1
43	See 43-1	for a proposal received for the same	1-21	7-27	
		type of SMS w/ U.S. water.	B3171.34	MAN 10+11	

KW RESORT UTILITIES

RATE CASE

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the System as an independent contractor. All employment arrangements are therefore solely Agent's concern, and Owner shall have no liability with respect thereto except as provided in this Section 2.13(b).

(c) Owner agrees to make available to Agent office space at the Property for use by Employees and Agent agrees that Employees shall use such office space solely in performance of Agent's duties and fulfillment of Agent's obligations under this Agreement. Agent shall pay Owner \$2,000 per month for said office space

(d) Owner agrees that (1) in the event there are any vehicles at the Property owned by Owner, owner will permit use of such vehicles by Employees and (2) in the event there are no vehicles at the Property owned by Owner, owner will reimburse Agent for expenses incurred by Agent in renting or leasing any vehicles; for use in performance of its duties and fulfillment of its obligations under this Agreement; provided, however, that Agent shall endeavor to include any such rental and leasing expenditures in the Approved Budget. Agent shall procure automobile liability insurance in statutory amounts respecting any vehicles not owned by Owner and provide Owner with duplicate insurance policies evidencing same and with evidence of the renewal or expiration of the term thereof. Agent agrees that Employees shall use any vehicles (whether owned by Owner or rented or leased by Agent) solely in performance of Agent's duties and fulfillment of Agent's obligations under this Agreement. Owner shall reimburse Agent for fuel and maintenance expenses for such vehicles (whether owned by Owner or rented or leased by Agent); provided, however, that Agent shall endeavor to include any such fuel or maintenance expenses in the Approved Budget. Agent shall maintain accurate records of monthly fuel and maintenance expenses and shall make such records available for inspection by owner.

2.14. Insurance. (a) Owner agrees to procure blanket property and casualty insurance and comprehensive general liability insurance on the Property in the amounts which it, in its sole discretion, deems to be appropriate. Agent shall promptly investigate and make a full written report to Owner and if directed by the Owner, to the insurance carriers retained by Owner, as to all alleged accidents and/or alleged claims for damages relating to the ownership, operation, management and maintenance of the Property and the System, including any damage or destruction to the Property and the System and the estimated cost of repair, and shall prepare any and all other reports required by any insurance company in connection therewith. Agent shall acquaint itself with all terms and conditions of insurance policies relating to the Property, cooperate with and make all reports required by the insurance carriers and do nothing to jeopardize the rights of Owner and/or any other party insured under said policies.

(b) Agent shall procure and carry at all times at Agent's sole cost and expense and provide Owner with duplicate insurance policies in effect as of the date of the execution of this Agreement and, if different, the policies in effect as of the effective date of this Agreement, and with evidence of the renewal of such policies no later than thirty (30) days prior to the expiration of the term thereof (each of which insurance policies shall name Owner as an insured and contain a provision giving Owner thirty (30) days' prior written notice by certified mail, return receipt requested, before cancellation or reduction of coverages): General Liability with limits of liability of not less than

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41	Source	Req 4							
42								43-1	
43	See	43-1	for a proposal received for the same	1-21				7-21	
		2	Type of SVS by U.S. Water.		\$3,171,34	min.		10+11	
					398,050			only	

KW RESORT UTILITIES

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performed at Agent's expense. If Owner shall so request in writing, Agent shall institute appropriate protests or challenges to the taxes or take such other appropriate steps to obtain a reduction of taxes. All taxes and any approved expenses of Agent incurred in contesting taxes or otherwise seeking a reduction thereof, including legal, professional, appraisal and accounting fees, if required, shall be considered operating expenses to be borne by Owner to the extent such costs are within the applicable line items in the Approved Budget or are otherwise approved in writing by Owner.

2.17. Advertising; Public Relations. (a) Subject to (1) compliance with the Approved Budget and (2) the prior written approval of Owner as to the form and substance of any advertisement or promotional activities relating to the Property and the System, Agent may hire such advertising agencies, place such advertisements and generally supervise and attend to all promotional activities and functions relating to the Property and the System and the operation thereof as Agent shall deem advisable.

(b) At Owner's request, Agent shall represent Owner in connection with matters of general public interest which pertain to the Property and the System and, after written notice to and discussion with Owner, to the extent Owner directs, Agent shall attempt to amicably resolve any complaints, disputes or disagreements in connection therewith as promptly as is reasonably possible.

(c) Agent shall provide information to prospective purchasers of the Property subject to the prior written approval of Owner as to form and substance and shall immediately notify Owner of interest from, or offers made by, any prospective purchaser; provided, however, that Agent shall not make contact with or respond to any inquiries from real estate brokers and real estate agents and shall promptly refer any inquiries from same to Owner.

(d) Agent shall not engage in any advertisement or promotional activities, erect or display any promotional signs or disseminate any promotional literature representing to the public its role as manager or operator of the Property and the System without the prior written approval of Owner in each instance as to form and substance.

2.18. Additional Operating Activities. Agent shall, whenever possible, perform the following additional operational activities:

(a) Procure competitive bids for services required for the efficient operation of the Property and the System. Agent shall contract in the name of the Owner for labor, services, materials, capital improvements and repairs to be furnished to or in respect of the Property and the System; provided, however, that Agent shall have no authority to make any expenditure or incur any obligation which results in a line item amount of any Approved Budget being exceeded or which is not consistent with the Approved Budget; provided, further, all contracts for labor, services, materials, capital improvements and repairs shall be awarded on the basis of the best overall price, quality and service; provided, further that Agent shall not modify, amend or terminate same without the prior

41	Source: Reg 4				
42					43-1
43	See 43-1	for a proposal received for the same	1-21	2	7-27
		type of SVS by U.S. water.	33,171,34	398, bsd	mtv. '0+11 only

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12-31-2006

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Contract for water

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written consent of Owner. All contracts shall be cancelable upon thirty (30) days' notice. All approved contracts shall be signed by Agent on behalf of Owner (as agent for Owner). Owner shall be entitled to receive the benefit of any discount or commission which Agent shall obtain in connection with such contracts or purchases, regardless of the form of any such discount or commission. Copies of all contracts shall be promptly forwarded to Owner after the execution thereof;

(b) Maintain, at all times, an adequate supply of hand tools, laboratory equipment, maintenance and repair parts, supplies, lubricants, meters, chemicals, uniforms and forms required to adequately and safely perform its obligations under this Agreement in accordance with all applicable laws. Such items shall at all times remain the personal property of Owner unless same were the property of Agent prior to the date hereof;

(c) Maintain an appropriate control system for purchases of all materials, supplies, inventory and equipment purchased pursuant to the terms hereof for the efficient operation of the Property and the System and strive to procure required materials in an efficient and cost-effective manner with regard to quality and at a price which shall not exceed the line item for same in the Approved Budget;

(d) Maintain, at all times, security at a level at least equal to the current level of security in or about the Property in order to protect the assets of Owner;

(e) Maintain, at all times, a twenty-four (24) hour answering and dispatch service for the benefit of all Customers and promptly respond to all emergency calls received by such emergency answering and dispatch service at the request of Owner or any Customer;

(f) Perform monthly meter reading services, when authorized and required, for any Customer meters and perform monthly meter reading services with respect to all Customer billing meters, including, without limitation, any meters for Reclaimed Water;

(g) Oversee any construction and/or development of the Property or System contemplated by the Approved Budget and negotiate (upon written direction of Owner), administer and monitor all construction agreements to which Owner is a party and take such other actions as may be necessary to cause Owner to comply with its obligation under such agreements; provided, however, that Owner acknowledges that Agent's obligations under this Section 2.18(g) shall not extend to the obligations of a general contractor;

(h) Assist Owner in procuring such appraisal of the Property by appraisers approved by Owner as may be required by Owner;

(i) Cooperate with consultants, engineers and other agents of owner in connection with any inspection of the Property and the System by same;

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41	Source	Req 4							
42								43-1	
43	See	43-1	for a proposal received for the same	1-21	type of	SYS by U.S. water.	\$3,171,34	min. 10+M	only
		2					398,050		

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

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(j) Notify Owner immediately of the suspension of delivery of Reclaimed Water under the Wastewater Reuse Agreement due to the existence of Sea Water Intrusion;

(k) Be available for communication with Owner and keep Owner advised at all times of all items which affect the Property and the System in any manner;

(l) In consultation with Owner, use diligent efforts to determine if any hazardous substance or waste is being used or discharged upon the Property and immediately notify Owner of any dumping, use or leakage of any such hazardous substance or waste on or near the Property. Agent shall notify Owner of any areas of potential concern relating to any hazardous substance or waste that may affect the Property;

(m) Cause all fire, safety and insurance requirements respecting the Property to be complied with and maintain all procedures now in effect to be used in the event of fire or other casualty at the Property;

(n) Notify Owner immediately of (1) any threatened or pending condemnation, rezoning or other governmental orders, proceedings or lawsuits involving the Property or the System, (2) the date or dates of the expiration of all existing governmental permits, certificates, licenses, franchises, consents and related orders and approvals, including, without limitation, Permit No. FLA014951-258748 issued as of July 11, 1995 (collectively, the "Permits,") and all other deadlines relating to the Property or the System; and (3) any violations relating to the use, repair or maintenance of the Property and the System or violations relating to the Permits;

(o) Comply in a timely manner with the terms and provisions of the Permits including, without limitation, the terms and provisions relating to the renewal thereof, and comply in a timely manner with requirements arising under any Development Orders, PUD requirements or any other rules and regulations now or hereafter affecting the Property. Agent shall maintain all past, current and future records regarding Permits and rate increases in the office on the Property;

(p) Provide owner with written notice of all requirements affecting the Property or the System including, without limitation, prior notice of the expiration date of any Permit, and a timetable for compliance with such requirements arising under any Development Order, Permit, Regulations, PUD requirement or any other rules, regulations or restrictions now or hereafter affecting same. Such notice shall be updated monthly to disclose new requirements and the progress made with respect to compliance with any existing requirements;

(q) Cooperate with and provide assistance to any future managers of the Property and the System (or any other properties in the vicinity of the Property owned by Owner);

(r) Supervise and inspect new Customer tie-ins;

(s) Advise Owner regarding operational efficiencies; and

41	Source: Reg 4								
42								43-1	
43	See 43-1	for a proposal received for the same	7-2#						
	1-2	type of sys by U.S. water.	83,171,34						
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(t) Perform any other service or activity incidental to the normal and professional operation of a property or system of a similar type and character of the Property or the System or as otherwise reasonably requested from time to time by Owner.

2.19. Adherence to Approved Budget. Agent shall use all efforts reasonable and necessary to ensure that the actual costs of maintaining and operating the Property and the System, shall not exceed the Approved Budget pertaining thereto, whether by line item or cumulative expense.

2.20. Payment of Operating and Capital Expenses. (a) Agent shall pay in a timely manner (taking advantage of any discounts for early payment) all expenses for the Property and the System from the Operating Account (as defined in Section 2.26); provided, however, that:

- (1) All such expenses must have been included within the Approved Budget;
- (2) All expenses which have been included as a line item within the Approved Budget, but the payment of which creates a variance in such month's Budget including such line item by ten (10)%- percent or \$2,000.00, whichever is less, shall not be paid until Owner has received a statement of the cause of such variance and Owner gives its written approval for the payment of such expense; and
- (3) Any expenses which are not included within the Approved Budget in excess of \$1,000.00 shall not be paid until receipt of the prior written approval of Owner. Any expenses arising in the event of an emergency shall be paid in accordance with subsection (b) (2) below.

(b) If, at any time, the Approved Budget shall not have been approved by Owner, then unless otherwise directed in writing by Owner, Agent may only make those expenditures necessary to (1) comply with laws, rules, orders, ordinances and regulations applicable to the Property and the System and (2) remedy an emergency condition as to which efforts to contact Owner were of no avail or the nature of the emergency was such that it would not have been prudent to attempt to contact Owner before taking remedial action; provided, however, that in such event, Agent shall continuously endeavor by its best efforts to notify Owner of the conditions and expenditures made in connection with any remedial action taken respecting same as soon as practicable under the circumstances.

2.21. Books of Record and Distributions. (a) Agent shall maintain accurate records of all funds received and disbursed in connection with Agent's management of the Property and the System and such records, together with all supportive and underlying documentation, shall be available for Owner's inspection at all times at the Property and the System or at Agent's office located at 5601 3rd Avenue, Stock Island, Key West, Florida 33045. All such records shall be maintained in accordance with generally accepted accounting principles, on a full accrual basis. Agent shall not dispose of any books or records relating to the Property and the System except upon receipt of the written approval of Owner. Agent shall maintain such control over

41	Source: Reg 4								
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43	See 43-1	for a proposal received for the same	7-3#						
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KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

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accounting and financial transactions as is required to protect Owner's assets from theft, error or fraudulent activity. On or before the fifth (5th) day of each calendar month, Agent shall remit to Owner, by bank wire transfer in accordance with wire transfer instructions provided by Owner from time to time, all funds on hand in the Operating Account (as defined in Section 2.26 hereof) as of the 25th day of the immediately preceding month less a certain amount to be determined by agreement of Owner and Agent (the "Reserve") and any other funds designated by Owner to be retained in the Operating Account. Without the prior written approval of Owner, Agent shall retain no funds in the Operating Account other than the Reserve and those collected subsequent to the preceding accounting period. Agent shall also mail to owner, forthwith upon Agent's receipt of same, a copy of the bank wire transfer confirmation.

(b) All books, cards, registers, receipts, documents, warranties, insurance policies, contracts, leases, violations, correspondence, plans and specifications, bid documentation, rate schedules, Customer information and any other papers or the information contained therein which are in any manner connected with the operation of the Property and the System are the sole property of Owner and shall be delivered to Owner at the expiration or termination of this Agreement and at any time during the term of this Agreement upon Owner's request. Agent agrees that it will not at any time (whether during the term of this Agreement or after the termination of this Agreement and irrespective of the reason for such termination), disclose to anyone, other than in the ordinary course of Owner's business, any such confidential documents or other confidential information or trade secret for its own benefit, or for the benefit of third parties, and all memoranda, notes, records or other documents compiled by it or made available to it during the term of this Agreement concerning the business of Owner and its clients and customers. If Agent commits a breach of this Section 2.21, Owner shall have the right to have this provision specifically enforced by any court having equity jurisdiction without being required to post bond or other security and without having to prove the inadequacy of the available remedies at law, it being acknowledged and agreed that any such breach will cause irreparable injury to Owner and that money damages will not provide an adequate remedy to Owner. In addition, Owner may take all such other actions and remedies available to it under law or in equity and shall be entitled to such damages as it can show it has sustained by reason of such breach. Notwithstanding the foregoing, the restrictions on disclosure of confidential information set forth herein shall not be applicable to information that was in the public record or available to the public on a non-confidential basis before disclosure to Agent, or which comes into the public record or becomes available to the public on a non-confidential basis after such disclosure, other than through an act in violation of the provisions of this Section 2.21. The foregoing provisions of this Section shall survive the expiration or termination of this Agreement.

2.22. Inventories, Etc. Agent shall prepare, keep current, and submit to owner as Owner shall from time to time request or as otherwise required herein: (a) an inventory of Owner's equipment and personal property at the Property or relating to the System; (b) a list of existing Customers and their use of System services; (c) a description of all events that occurred during the month then ended that might have an

41	Source	Req 4							
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43	See 43-1	for a proposal received for the same	7-27						
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effect on the Property or the System including, but not limited to, claims or alleged claims of any nature which are not covered by or may be disputed under insurance policies; and (d) such other reports as Owner shall request in connection with the operation and management of the Property and the System.

2.23. Reports. Agent shall prepare and deliver to Owner:

(a) The following reports within fifteen (15) days after the end of each month during the term of this Agreement, which reports shall be in form and substance satisfactory to Owner:

- (1) ~~Operating statement on either or both a cash basis or accrual basis for such accounting period and year to date;~~
- (2) ~~Balance sheet;~~
- (3) ~~Bank statements and reconciliations.~~
- (4) ~~Schedule of capital improvements; and~~
- (5) ~~Report of actual variances between any Approved Budget line item and actual or anticipated expenditures for such item, with detailed explanations and a forecast of operating results at year end.~~

(b) ~~The following reports and other documents within thirty (30) days after the end of each Fiscal Year quarter or when otherwise requested by Owner, which reports and other documents shall be in form and substance satisfactory to Owner:~~

- (1) ~~Statement of operating receipts;~~
- (2) ~~Statement of disbursements;~~
- (3) ~~Schedule of accounts payable and accrued expenses;~~
- (4) ~~Delinquent accounts receivable aging;~~
- (5) ~~Schedule of reserve and escrow accounts;~~
- (6) ~~Cash disbursements journal;~~
- (7) ~~Calculation of payroll, taxes and benefits and professional fees (if any) for the period, together with supporting documentation;~~
- (8) ~~Schedule of draw requests; and~~

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43	See 43-1	for a proposal received for the same	2-27				
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(9) A descriptive, qualitative report of the activities of the Property and the System identifying existing areas of concern and recommended courses of action including, without limitation, a monthly inspection report substantially in the form of Exhibit D annexed hereto.

(c) On December 31, 2005 and on or before December 31st, of each year thereafter for so long as this Agreement or any renewals thereof shall remain in full force and effect, a detailed inventory of Owner's equipment and all personal property at the Property or relating to the System.

(d) Within ten (10) days after the end of the term for each insurance policy carried by Agent pursuant to the terms of Section 2.14(b) hereof, renewal policies, evidence of payment and/or financing, and loss information for the preceding policy term.

2.24. Audits. Owner reserves the right to conduct examination of, and to audit, without prior notification, the books and records maintained by Agent. Such examination and audits may be performed at the Property or at Agent's office if the books and records are maintained at Agent's offices. Should the audit discover errors in recordkeeping, Agent shall immediately correct same and shall promptly inform Owner in writing of the action taken to correct such errors. Audits conducted by Owner or its designees shall be an expense of Owner. Agent shall cooperate with the Owner's accountants in any audit of such books, records and accounts and the preparation of annual audited statements. Agent shall insure such control over accounting and financial transactions as is reasonably required to protect Owner's assets from theft, willful misconduct, or fraudulent activity on the part of Agent's employees and agents. The right to audit the books and records maintained by Agent shall survive the expiration or termination of this Agreement.

2.25. Meeting with Owner. Agent agrees that Agent's Authorized Supervisor and the Operations Manager shall be available for meetings with Owner in Miami, Florida or Key West, Florida, upon Owner's reasonable request and at Owner's expense, to discuss the management activities to be conducted by Agent hereunder. Agent further agrees to communicate verbally with Owner, or its designated agent, on no less than a monthly basis to provide Owner with a monthly status report.

2.26. Operating Account. (a) Agent shall maintain an operating account (the "Operating Account") in a bank selected by Owner (the "Bank"), which account shall be in the name of, and the exclusive property of, Owner and shall be solely for the deposit of monies belonging to Owner and not for deposit of monies of Agent or others, and shall require for withdrawal of monies therefrom the signatures of two authorized officers of Agent approved by Owner, as authorized officers of Agent, or an authorized officer of Owner. All monies deposited into the Operating Account shall be remitted to Owner in accordance with the provisions of Section 2.21 hereof.

41	Source:	Req 4							
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43	See	43-1	for a proposal received for the same	7-27					
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(b) ~~If at any time the cash in the Operating Account shall not be sufficient to pay the bills and charges which may be incurred with respect to the Property and the System pursuant to the Approved Budget, Agent shall notify Owner immediately of such condition or the potential for such condition. Agent shall also provide to Owner a sources and uses statement to document such cash shortages and owner shall, at its option, provide sufficient monies to eliminate such cash shortage.~~

2.27. Use of Counsel and Other Professionals. If assistance of any attorneys, architects, accountants, engineers or other professionals is necessary for any reason, Agent shall obtain such assistance from only such professionals as may have been approved in writing by Owner (which approval shall include the approval of all fee arrangements) after having first secured Owner's authority for such specific engagement. Agent shall cooperate with all other persons employed by Owner in connection with the Property and the System including, without limitation, Owner's accountants in regard to the preparation and filing by Owner of Federal, State, City or local municipal income or other tax returns and annual audit reports or reports required by any governmental authority.

2.28. Notice of Engagement. If Agent or any of its affiliates shall begin construction or development of, or acquire any equity interest in, or shall assume management responsibilities with respect to, any other property similar to the Property situated within five (5) miles of the Property, Agent shall give owner written notice thereof within ten (10) days after the occurrence of such event.

2.29. Exclusions. Agent shall not have the authority to, and shall not:

(a) Sell, assign, transfer or pledge any rights, compensation or obligations under this Agreement;

(b) Contract to finance, mortgage, ground lease, lease, hypothecate, encumber or otherwise pledge the Property, the System or any portion thereof;

(c) Except as otherwise approved by the Owner in writing, enter into any service contracts which are not terminable, without penalty at the option of either Agent or Owner for any reason on 30 days or less notice;

(d) Enter into any agreement for the sale of the Property, the System or any portion thereof; and

(e) Except as otherwise approved by Owner in writing, (1) remove, permit or cause the removal of any personal property of Owner from the Property (except for the vehicle described in Section 2.11 which may be removed and used off-site by Agent in performance of Agent's duties or fulfillment of Agent's obligations hereunder); (2) provide, permit or cause the provision of System service to any third party (including Customers and any other facility or property managed or owned by Agent) without in each instance charging the applicable rate in connection therewith; (3) promote or permit the use of all or any portion of the Property or the System (including, without limitation, personal property and equipment) to be used on-site by or for the benefit of any third

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party (excluding Customers but including and any other facility or property managed or owned by Agent), without regard to whether adequate payment or other consideration is received in connection therewith; or (4) permit or cause the Property or any portion thereof to be used for any purpose unrelated to the operation, management and maintenance thereof and the performance of Agent's duties or fulfillment of Agent's obligations hereunder.

2.30. Additional Services at Additional Cost. In the event Owner requests that Agent perform any services not otherwise included within the responsibilities of Agent under this Agreement, including, without limitation, groundwater monitoring and semiannual sludge and effluent nitrogen analysis, Agent shall perform such services at an additional cost to Owner equal to \$65.00 per hour. Agent shall maintain accurate records with respect to such services and shall provide such records to Owner, together with invoices for payment, and any compensation due and payable to Agent for such services shall not, without the prior written approval of Owner, be paid by Agent to itself from the Operating Account.

ARTICLE III.
INDEMNIFICATION

3.01. Indemnification. (a) Owner agrees to defend, indemnify and hold Agent, all persons and companies affiliated with Agent and all officers, shareholders, directors and employees of Agent and of any affiliated companies or persons, (collectively, "Agent's Indemnified Persons"), free and harmless and to release the Agent's Indemnified Persons from and against all claims, costs, expenses, demands, attorneys' fees and disbursements, suits, liabilities, judgments and damages of any and every kind or nature arising or resulting from or in any way connected with the Agent's performance of its duties and obligations under this Agreement (collectively, the "Claims") other than any Claims arising or resulting from or in any way connected with (a) any acts by Agent's Indemnified Persons or any independent contractors engaged by Agent to act on behalf of Agent ("Agent's Independent Contractors") outside the scope of Agent's authority under this Agreement, (b) the negligent or willful acts or omissions of Agent's Indemnified Persons or Agent's Independent Contractors, or (c) the breach of this Agreement by Agent's Indemnified Persons or Agent's Independent Contractors. Owner agrees to reimburse Agent's Indemnified Persons upon demand for any monies (including reasonable attorneys' fees and disbursements) which Agent's Indemnified Persons are required to, pay out for any Claims.

(b) Agent agrees to defend, indemnify and hold Owner, all persons and companies affiliated with Owner and all officers, shareholders, directors and employees of Owner and of any affiliated companies or persons (collectively, "Owner's Indemnified Persons"), free and harmless and to release the Owner's Indemnified Persons from and against any Claims arising or resulting from or in any way connected with (a) any acts by Agent's Indemnified Persons or Agent's Independent Contractors outside the scope of Agent's authority under this Agreement, (b) the negligent or willful acts or omissions of Agent's Indemnified Persons or Agent's Independent Contractors or (c) the breach of this Agreement by Agent's Indemnified Persons or Agent's Independent Contractors. Agent agrees to reimburse Owner's Indemnified Persons upon demand for any monies (including reasonable attorneys' fees and disbursements) which Owner's Indemnified Persons are required to pay out for any such Claims.

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43	See 43-1	for a proposal received for the same	1-21	7-27			
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(c) The foregoing provisions of this Section 3.01 shall survive the expiration or termination of this Agreement.

ARTICLE IV.
COMPENSATION

Owner agrees to pay to Agent and Agent agrees to accept, as full and complete consideration for all undertakings herein provided or contemplated, the following compensation:

4.01. Management Fee. Owner shall during the term of this Agreement pay Agent for the performance of its management and administrative duties hereunder a management and administration fee (the "Management Fee") of \$_____ in twelve (12) installments of \$_____ payable on the tenth day of each month for the then-current month commencing June 10, 1996 and ending May 10, 1997. In the event the term of this Agreement commences, expires or terminates on a day other than the first or last day of a calendar month, the Management Fee shall be apportioned and payable appropriately.

4.02. Related Parties. It is expressly agreed by the parties hereto that without the prior written consent of Owner in each instance, Agent shall not, in connection with the performance of its duties hereunder, purchase any supplies, equipment or other items from or contract or make any commitments with or otherwise employ or deal with any person, firm, company, partnership or other entity which is controlled by Agent or in which Agent, Agent and its employees, or any parties controlling Agent have a direct or indirect financial interest or relation (each, a "Related Party").

4.03. Full Compensation. ~~The compensation payable to Agent pursuant to Section 4.01 hereof may be paid by Agent to itself from the Operating Account (subject to the provisions of Section 2.26) unless otherwise directed by Owner. The compensation payable to Agent pursuant to Section 4.01, together with any compensation payable to Agent pursuant to Section 2.10, shall constitute the only compensation payable by Owner, or any other party, to Agent for the services rendered by Agent or to be rendered by Agent pursuant to this Agreement or otherwise in connection with the operation, maintenance and management of the Property and the System. All office expenses, salaries or any other costs or obligations incurred by Agent in the performance of its duties hereunder shall be borne solely by Agent.~~

ARTICLE V.
TERM

5.01. Term. This Agreement shall become effective as of the first day of December, 2004 and shall continue in full force and effect for a term of one (1) year until and including the thirty first day of October 31, 2005.

41	Source	Req 4			
42					43-1
43	See	43-1	for a proposal received for the same	7-27	
		1-21	type of SVS by US water.	\$3,171,34	min. 10+M
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5.02. Termination. Notwithstanding anything to the contrary contained in this Agreement, Owner may terminate this Agreement for any reason or no reason whatsoever without penalty upon thirty (30) days prior written notice to the Agent ("Owner's Termination Notice") and Agent may terminate this Agreement for any reason or no reason whatsoever without penalty upon sixty (60) days prior written notice to Owner ("Agent's Termination Notice"). Upon delivery of Owner's Termination Notice to Agent or receipt of, Agent's Termination Notice by Owner, as the case may be, Owner may, at owner's option, (i) suspend, Agent's performance of all or any portion of its duties during the period following delivery of Owner's Termination Notice or receipt of Agent's Termination Notice, as the case may be, and (ii) direct that Agent terminate all employees of Agent at the Property and that Agent terminate or suspend any services or supplies provided by third parties. Owner's Termination Notice or Agent's Termination Notice, as the case may be, shall designate the termination date of this Agreement. The transmittal of Agent's Termination Notice to Owner shall not preclude Owner from accelerating the termination date designated by Agent in Agent's Termination Notice which acceleration may be effected by Owner sending a subsequent written notice to Agent pursuant to this Section 5.02.

5.03. Other Termination. In the event a petition for bankruptcy is filed by or against either Owner or Agent, or, in the event that either shall make an assignment for the benefit of creditors or take advantage of any insolvency act, either party hereto may forthwith terminate this Agreement upon written notice to the other. This Agreement shall also be automatically terminated and the obligations of the parties hereunder shall immediately cease (except for the obligations of Agent set forth in Section 5.04 and except with respect to those provisions that survive the expiration or termination of this Agreement, as specifically provided herein), upon a sale of the Property by Owner.

5.04. Responsibilities upon Expiration or Termination.

(a) Upon the expiration or termination of this Agreement, for any reason or no reason whatsoever, Agent shall forthwith, without necessity of demand or notice, deliver the following to Owner, or Owner's appointed agent on the effective date of termination or on such earlier date as requested by Owner:

- (1) A final accounting reflecting the balance of income and expenses for the Property and the System as of the date of termination;
- (2) Any balance of monies, as verified by the final accounting described in clause (a) of this Section, remaining in the Operating Account, together with any other monies of Owner held by Agent with respect to the Property and the System;
- (3) All files, records or documents of any kind, including but not limited to, contracts, leases (including equipment leases), warranties, bank statements, employment records, rate schedules, customer lists, plans and specifications, inventories, correspondence, receipts, paid and unpaid bills or invoices and maintenance records;

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RATE CASE

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- (4) A schedule setting forth an inventory of Owner's equipment and personal property at the Property or relating to the System;
- (5) An assignment to Owner, or its nominee or designee, of all service contracts relating to Property and the System; and
- (6) All other documents and information relating to the Property and the System necessary for the Owner or Owner's designee to assume the immediate management thereof.

The obligation of Agent to deliver the foregoing shall survive the termination of this Agreement.

(b) Agent and Agent's Authorized Supervisor shall, for a period of sixty (60) days after the termination of this Agreement, and for such further period as may be necessary, make themselves available to consult with and advise Owner, or such other person or persons as may be designated by Owner, regarding the management, operation and maintenance of the Property and the System.

5.05. Shut Down Election. Without limiting the right of Owner to terminate this Agreement in accordance with Section 5.02 hereof or any other right of Owner to terminate set forth in this Agreement, Owner may at any time for any reason or no reason whatsoever elect ("Shut Down Election") upon not less than thirty (30) days prior written notice to Agent (or immediately upon receipt of notice if Agent shall have sent a notice of termination to Owner pursuant to Section 5.02 hereof) ("Shut Down Notice") to shut down or limit all or any part of the operations of Agent pursuant to this Agreement and to otherwise suspend Agent's performance of all or any portion of its duties under this Agreement. Owner shall have the right at any time to withdraw or revoke any Shut Down Notice previously sent to Agent, in which event all operations of Agent shall continue as if the Shut Down Election was never exercised. If Owner shall exercise the Shut Down Election, at the request of Owner, Agent shall terminate all or any number of the Employees designated by Owner. The Shut Down Election shall not relieve Owner of its obligation to pay Agent the Management Fee.

5.06. Subsequent Employment. Upon the expiration or earlier termination of this Agreement, Owner shall have the right to employ any employee of Agent without any claim of, or liability to, Agent.

ARTICLE VI.

MISCELLANEOUS PROVISIONS.

6.01. Notices. Any and all notices required or which either party herein may desire to give to the other, shall be made in writing and shall be given by certified or registered mail, postage prepaid, return receipt requested, or by recognized overnight courier, such as FedEx or Airborne Express, and shall be deemed to be given on the third business day following the date of posting in a United States Post Office or branch post office or one day after delivery to the overnight courier, or by telecopier with confirmed receipt, and shall be addressed:

41	Source	Req 4				
42						43-1
43	See	43-1	for a proposal received for the same	1-21	2	7-27
			type of SWS by U.S. water.	83,171.34	348,050	mtly. 10+11 only

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12-31-2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title:

1/16/07
10/22/07
TAP

Docket No. 070293-SU
Exhibit KLV-2 (Page 28 of 42)
Audit Finding 3 Work Papers

To Owner: William L. Smith, Jr.
Smith, Hemmesch, Burke & Brannigan
11 East Adams Street
Suite 1400
Chicago, Illinois 60603
Tel: (312) 939-0100
Fax: (312) 939-7765

With Copies to: Key West Golf Club
Attn: Doug Carter

To Agent: Keys Environmental, Inc.
6630 Front Street
Stock Island
Key West, Florida 33045

6.02. Relationship. Notwithstanding anything to the contrary contained herein, Agent shall be an independent contractor performing management functions for Owner but shall, at all times, be subject to the provisions of this Agreement with respect to managerial decisions. All records maintained by Agent with respect to the operation, leasing or maintenance of the Property and the System shall, at all times, be and constitute the property of Owner and shall be surrendered to Owner in accordance with the terms hereof, without charge or expense. Nothing herein shall create an agency coupled with an interest. Nothing herein shall be construed as creating a partnership or joint venture between Owner and Agent.

6.03. Owner's Limited Liability. Agent agrees that it does not have and will not have any claims or causes of action against any general or limited partner in or of the Owner, whether direct or indirect, or any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other affiliate of Owner, including, without limitation, WS Utility Inc. or Green Fairways, Inc. (collectively, "Owner's Affiliates") arising out of or in connection with this Agreement or the transactions contemplated hereby. Agent agrees to look solely to Owner, and its assets for the satisfaction of any liability or obligation arising under this Agreement or the transactions contemplated hereby, or for the performance of any of the covenants, warranties, obligations or other agreements contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of Owner's Affiliates with respect to any matters arising out of or in connection with this Agreement or the duties and obligations contemplated hereby. Without limiting the generality of the foregoing provisions of this Section 6.03, Agent hereby unconditionally and irrevocably waives any and all claims and causes of action of any nature whatsoever it may now or hereafter have against Owner's Affiliates and hereby unconditionally and irrevocably releases and discharges Owner's Affiliates from any and all liability whatsoever which may now or hereafter accrue in favor of Agent against Owner's Affiliates, in connection with or arising out of this Agreement and the duties and obligations contemplated hereby.

6.04. Compliance with Law. During the term of this Agreement, Agent and anyone authorized to act for Agent shall comply with all applicable state and local laws. Neither Owner, Agent nor anyone authorized to act for such parties shall, in the rental or sale, in the provision of services or any other manner, discriminate against any

40									
41	Source:	Req 4							
42									93-1
43	Sep	43-1	for a proposal received for the same	1-21	7-27				
		2	type of svcs by U.S. water.	33,171.34	348,056	only			

Comprehensive audit

*10/22/07
TAP*

person on the grounds of race, color, creed, religion, sex, national origin, or any other basis prohibited by law.

6.05. Amendment. This Agreement contains the entire agreement of the parties and any attempt to change or modify the terms hereof shall be null and void, unless approved and agreed to in writing by Owner and Agent. All prior agreements and understandings are hereby agreed to be null and void.

6.06. Governing Law. This Agreement shall be construed, interpreted and applied in accordance with, and shall be governed by, the laws applicable in the State of Florida.

6.07. Stipulation of Jurisdiction. In the event Owner seeks to enforce this Agreement, by legal action, Agent hereby waives the right to be sued in the city or county of Agent's principal place of business, state, province or country of incorporation. Owner and Agent do hereby irrevocably and unconditionally stipulate and agree that the Federal Courts in the State of Florida or the Circuit Court of the State of Florida in and for Monroe County, shall have exclusive jurisdiction to hear and finally determine any dispute, claim or controversy or action arising out of or connected (directly or indirectly) to this Agreement. Agent agrees that final judgment(s) in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any manner provided by law. Nothing in this Section shall affect the right of Owner to serve legal process in any manner permitted by law or affect the right of Owner to bring any action or proceeding against Agent or its property in the courts of any other jurisdiction. To the extent that Agent has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, Agent hereby irrevocably waives such immunity in respect of its obligations under this Agreement. The foregoing consent, in advance, to the jurisdiction of the above-mentioned courts is a material inducement for Owner to enter into this Agreement.

6.08. Assignment. Agent shall not assign this Agreement or any right hereunder without the prior written consent of Owner. Any transfer of a majority in interest of the voting stock or general partnership interests in Agent or any material change in the individuals having operating responsibility for Agent shall be deemed an assignment of this Agreement. Owner may freely assign its rights under this Agreement.

6.09. Construction. The plural may include the singular and the singular may include the plural and this Agreement shall be interpreted in this regard as the context may require.

6.10. Headings. All captions and headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

41	Source	Req 4							
42								43-1	
43	Sep	43-1	for a proposal received for the same	1-21	7-27				
		2	type of SVS by U.S. water.	33,171.34	398,056			many 10+1	only

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title

Docket No. 070293-SU
 Exhibit KLW-2 (Page 30 of 42)
 Audit Finding 3 Work Papers

Handwritten initials

Handwritten: 10/22/07, TAD

6.11. Remedies. No failure or delay on the part of any party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to any party at law or in equity or otherwise.

6.12. Time of the Essence. Time is of the essence to each provision of this Agreement.

6.13. Authority. Each individual executing this Agreement on behalf of any party to this Agreement represents and warrants that he or she is authorized to enter into this Agreement on behalf of that party and that this Agreement binds that party.

6.14. Third Parties. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person and the parties hereto and their respective permitted successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person or any party hereto or give any third person any right to subrogation or action over or against any party to this Agreement.

6.15. Merger. This Agreement supersedes all prior agreements or understanding, written or oral, of the parties hereto relating to the subject matter of this Agreement, and, together with the writings to be delivered pursuant to this Agreement, incorporates the entire understanding of the parties hereto with respect to the subject matter hereof.

6.16. No Representations. The parties acknowledge and agree that no party to this Agreement nor any person or entity acting on their behalf has made any representation or promise to the other party which is not expressly set forth herein.

6.17. Duties and Obligations. Any and all duties or obligations that any party to this Agreement may have to the other parties to this Agreement are limited to those expressly stated in this Agreement, and neither the duties and obligations of such party nor the rights of the other party to this Agreement shall be expanded beyond the express terms of this Agreement on the basis of any legal or equitable principle or on any other basis whatsoever.

6.18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument, but only after all of the other parties hereto have executed at least one counterpart to this Agreement.

6.19. Waiver. The waiver of any terms and conditions of this Agreement on any occasion or occasions shall not be deemed as a waiver of such on any future occasions.

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41	Source Req 4								
42								93-1	
43	See 43-1	for a proposal received for the same						7-27	
	1-21	type of svcs by U.S. water.							
	2								

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12-31-2006

Docket No. 070293

Audit Control No. 07-2334-1

File

10/2/07
TJR

Docket No. 070293-SU
Exhibit KLW-2 (Page 31 of 42)
Audit Finding 3 Work Papers

6.20. Divisibility. In the event any article, section or paragraph of this Agreement is deemed illegal or unlawful, the same shall be struck herefrom and all other articles, sections or paragraphs shall remain valid and in full effect.

6.21. Liens. This Agreement shall not create an interest in real property and it shall not be recorded in the public records of any jurisdiction. Notwithstanding anything to the contrary contained herein, neither Agent nor any officer, partner, representative or agent thereof shall be entitled to place, file or record a lien against the Property on account of any sums alleged to be due and payable to Agent; provided, however, that nothing contained in this Section 6.21 shall be deemed to limit Agent's rights with respect to any judgment including any rights under applicable law to foreclose such judgment.

6.22. JURY TRIAL WAIVER. OWNER AND AGENT HEREBY KNOWINGLY, UNCONDITIONALLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH, OR ANY COURSE OF CONDUCT COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON OR ANY EXERCISE BY ANY PARTY OF ITS RESPECTIVE RIGHTS UNDER THIS AGREEMENT OR IN ANY WAY RELATING TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS AGREEMENT OR ANY CLAIMS OR DEFENSES ASSERTING THAT THIS AGREEMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS PROVISION IS A MATERIAL INDUCEMENT FOR OWNER TO ENTER INTO THIS AGREEMENT.

40									
41	Source	Req 4							
42								43-1	
43	Sep	43-1	for a proposal received for the same	7-2#					
		1-21	type of svs by U.S. water.	33,171.34	min. 10+11				
		2		398,050					

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233,4-1

Title

10/2/07
10/2/07
JAS

Docket No. 070293-SU
Exhibit KLV-2 (Page 32 of 42)
Audit Finding 3 Work Papers

12-18-04 2:57AM

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Signed, sealed and delivered
in the presence of:

Gillian SEIFERT
Print Name

Doug Carter
Print Name

OWNER:

KW RESORT UTILITIES CORP.,
a Florida corporation

By: William L. Smith, Jr.
William L. Smith, Jr.
Title: President

Signed, sealed and delivered
in the presence of:

Mark Burkemper
Print Name

Daniel J Wojtulewicz
Print Name

AGENT:

KEYS ENVIRONMENTAL, INC.
a Florida corporation

By: Christopher C. Johnson
Chris Johnson
Title: President

41	Source	Req 4							
42									43-1
43	Sep	43-1	for a proposal received for the same	7-27					
		1-21	type of SVS by U.S. water.	83,171,34	min. 10+1				
		2		398,050	only				

KW RESORT UTILITIES
RATE CASE

Test Year Ended 12 31 2006
Docket No. 070293
Audit Control No. 07-233-4-1

Title: *Extension of Contract*

KW
10/22/07

Docket No. 070293-SU
Exhibit KLV-2 (Page 33 of 42)
Audit Finding 3 Work Papers

10/02/2007 15:13 3052941212

PAGE 02

Amendment to Management Agreement between KW Resort Utilities Corp. and Keys Environmental Inc, dated December 13, 2004.

43-1
1-21
1

Effective December 31, 2005 the terms of this agreement are hereby extended indefinitely at a rate to be negotiated on or before December 31st of each year.

OWNER:

KW RESORT UTILITIES CORP.,

By *[Signature]*
William L. Smith, Jr.
Title: President
KW RESORT UTILITIES CORP.

AGENT:

KEYS ENVIRONMENTAL, INC.

By *[Signature]*
Chris Johnson
Title: President
KEYS ENVIRONMENTAL INC.

Source: Page 8

43-1
1-21
1-1

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title: *But for rates being done*

KW 10/22/07 IHP

Docket No. 070293-SU
Exhibit KLV-2 (Page 34 of 42)
Audit Finding 3 Work Papers



U.S. Water Services Corporation
4939 Cross Bayou Blvd
New Port Richey, Florida, 34652

Water and Wastewater Utility Operation, Maintenance, Management, Engineering, Construction

LETTER OF TRANSMITTAL

January 15, 2007

Key West Resort Utility
Attn: Doug Carter
General Manager
P.O. Box 2125
Key West, Florida 33045

*comparables
33,171
see last
PS*

RE: Proposal for Contract Operations and Maintenance of Key West Resort Utility
Wastewater, Collection and Reuse Distribution Systems.

Dear Mr. Carter:

U.S. Water Services would like to thank you for the opportunity to meet with you last Thursday and to present this proposal to operate and maintain the Key West Resort Utility Wastewater Treatment Facility. We welcome the challenge to implement a standard of service within your service territory that provides exemplary operation and maintenance services cultivated on the fundamentals of a solid management plan and commit to meeting contract obligations in a timely manner. U.S. Water has assessed the current needs of the Utility in relation to the operation of the facility and possesses an excellent understanding of the Scope of Work identified.

U.S. Water Services Corporation is a privately owned corporation based in the State of Florida. U.S. Water staff has been working in the Florida Keys since 1998 and has grown into Florida's largest privately held operations company and provides operations services to over 450 plants statewide. Our continued presence in the Keys has allowed U.S. Water to gain a complete understanding of local labor issues and shortages. Unlike typical operations companies, U.S. Water is diverse in its structure. U.S. Water business lines include a full service Engineering Group, statewide Maintenance Group and a Contracting Services Group which complement the abilities of U.S. Water Services as an operation and maintenance company. Our Engineers assist our contracted operations clients with process optimization, troubleshooting and provide highly efficient solutions. Employing former FDEP senior staff, Mo Kader, P.E. and Dr. Jay Thabaraj, who are both authorities in permitting and regulatory compliance, allow us to tackle any environmental solution with swift positive results. The Maintenance Group is capable of providing an unlimited scope of services ranging from vacuum system repairs to emergency onsite facilities repair, while our Contracting Services Group specializes in larger projects associated with underground utility installation and rehabilitation, and the rehabilitation or construction of treatment works facilities. U.S. Water

*3/3-1
1-21
2*

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title: Bid for Services Being Done
By K&S

KW
10/22/07
IHP

Docket No. 070293-SU
Exhibit KLV-2 (Page 36 of 42)
Audit Finding 3 Work Papers

MC

Thank you for allowing our company to participate in this important proposal process. We appreciate all consideration on our behalf.

Authorized Persons to make representations on behalf of US Water Services Co. is as follows:

Gary Deremer, President
R. Scott Lewis, Director of Operations
4939 Cross Bayou Blvd., New Port Richey Florida
Phone: 727-848-8292 Fax: 727-848-7701

Sincerely,

R. Scott Lewis
Director of Operations
U.S. Water Services Corporation

US Water Services Corporation
Federal ID: 20-0008821

U.S. Water
Services Corporation

3/3-1
1-21
2

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31 2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title: Bad for Service Being Done
By KWRU

KW
10/22/07
SHH

Docket No. 070293-SU
Exhibit KLW-2 (Page 39 of 42)
Audit Finding 3 Work Papers

RPC

Utility Safety Plan

At USWC our personnel are our most valuable assets. As such the safety of our employees is a fundamental pillar of our quality management approach to utility operations. USWC strives to always provide a safe and healthy work environment for our staff, subcontractors and the community as a whole.

USWC as part of its transition will take its existing Safety Manual and integrate site specific policies and procedures. Training is provided to the staff to familiarize them with various aspects of the plan. The most current copy of the Safety Manual is always kept at the facilities office for staff review. USWC's Safety Officer will review the Safety Plan on an annual basis at a minimum or as required due to operational conditions. The Safety Officer will also collect and post OSHA 300 logs as required.

Transition Plan

The overall success of this proposal is heavily tied to a successful transition of personnel and equipment. In addition the past experience of the utility contractor in the overall management of an entire utility is critical. USWC senior staff brings the collective experience of over 100 years in utility management and transitions to this project. USWC has converted numerous municipal utilities to USWC operations or ownership. It is U.S. Water's philosophy that during the transition of a facility to provide a seamless transfer of staff and facilities to USWC while meeting all regulatory requirements, depot operational needs and without a disruption of water or wastewater services. The overall project, including the transition will be managed by USWC's onsite Project Manager. He will coordinate USWC resources and will provide a wide range of technical and administrative support.

USWC's transition plan addresses the full range of technical and administrative services to be transitioned from the existing operational staff. We understand the need to ensure reliable and uninterrupted wastewater utility service to the KWRU. Our initial focus is to develop and support the existing staff and where needed supplement the staff with outside resources. We are keenly aware that during any transition it is extremely important to be sensitive the needs of the existing staff. We realize that any change related to a person's job can result in concerns and questions for the employee and their family. Therefore, our transition plan is based on the principles of:

- ↓ Treating each and every individual with respect
- ↓ Dealing with employee concerns on an individual basis
- ↓ Being prepared to deal with their concerns as quickly and completely as possible



4/3 = 1
1-21
2

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title: *But for Service Being None*
By: Lee Penick

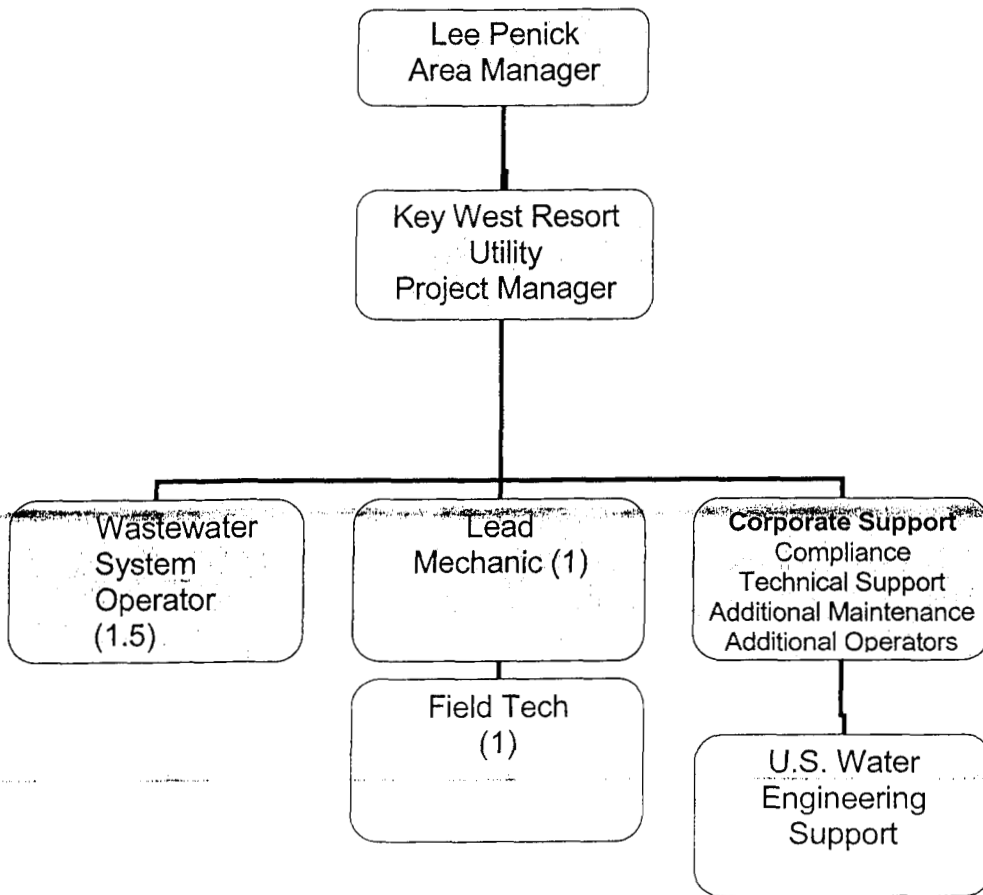
KW 10/22/07
Dave
IHP

Docket No. 070293-SU
 Exhibit KLV-2 (Page 40 of 42)
 Audit Finding 3 Work Papers

During the transition USW will interview all of the incumbent employees and will make every effort to find a role in the new operations for all staff who wish to remain with the wastewater facilities. We understand that KWRU wishes to retain the services of these current lead operator and USWC will make every effort to accommodate this request.

Staffing Plan

USWC has devised our staffing plan to provide high quality service with an eye towards financial savings. Our proposed staffing levels are detailed below on the organizational chart.



9/3 = 1
1 = 21
2

KW RESORT UTILITIES

RATE CASE

Test Year Ended 12/31/2006

Docket No. 070293

Audit Control No. 07-233-4-1

Title: But for Services Being Done by KWRU

Docket No. 070293-SU
Exhibit KLV-2 (Page 42 of 42)
Audit Finding 3 Work Papers

KW
10/22/07
IHP

Dave

Dave

The total monthly cost proposed for this project is \$33,171.34

43-1
1-21
1

Price Adjustments:

The contract price will be adjusted annually every April 1st by use of the CPI as found for the Southeast United States or by 5% whichever is greater. If the scope of services is changes due to the addition of new facilities or appurtenances or regulatory requirements a new contract price will be negotiated with the KWRU on a case by case basis.

U.S. Water
Services Corporation

4/3-1
1-21
2

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp. | DOCKET NO. 070293-SU
| FILED: DECEMBER 31, 2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Kathy L. Welch, on behalf of the Florida Public Service Commission, has been furnished by U.S. Mail, this 31st day of December, 2007, to the following:

Office of Public Counsel
C. Beck/S. C. Reilly/S. C. Burgess
c/o The Florida Legislature
111 W. Madison Street, RM 812
Tallahassee, FL 32399-1400

Monroe County
County Attorney, Suzanne A. Hutton
P.O. Box 1026
Key West, FL 33041-1026

K W Resort Utilities Corp.
Mr. Doug Carter
P.O. Box 2125
Key West, FL 33045-2125

Rose Law Firm
F. Marshall Deterding
2548 Blairstone Pines Drive
Tallahassee, FL 32301



RALPH R. JAEGER SENIOR ATTORNEY
FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Telephone: (850) 413-6234