



September 22, 2015

VIA E-FILING

Carlotta S. Stauffer, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 150071-SU – Application for increase in Wastewater rates in Monroe County by K W Resort Utilities Corp.
Our File No.: 34000.01

Dear Ms. Stauffer:

The following are the responses K W Resort Utilities Corp (“Utility”) to the Staff’s Second Deficiency Letter dated September 16, 2015:

1. According to MFR Schedule B-9, the utility incurred charges from Green Fairways, Inc. and Smith Oropeza, P.L. during the test year. In addition, the utility’s annual report Schedule E-10(a) shows charges from Keys Environmental, Inc. and Key West Golf Club during the test year. The utility provided a parent/affiliate organization chart in which Green Fairways, Inc., Smith Oropeza, P.L., and Keys Environmental, Inc. are listed as related parties to K W Resort Utilities Corp. Rule 25-30.436(h), Florida Administrative Code (F.A.C.), requires that any system that has costs allocated **or charged to it from a parent, affiliate or related party**, in addition to those costs reported on Schedule B-12 of Commission Form PSC/AFD 19-W for a Class A utility shall file three copies of additional schedules that show the following information:
 - a. The total costs being allocated **or charged** prior to any allocation or charging as well as the name of the entity from which the costs are being allocated or charged and its relationship to the utility.
Response: See Attachment 1a.
 - b. The allocation **or direct charging method** used and the basis for using that method.
Response: See Attachment 1a.
 - c. The workpapers used to develop, where applicable, **the basis for the direct charging method**.
Response: See Attachment 1a.

- d. A copy of any contracts or agreements between the utility and its parent or affiliated companies for services rendered between or among them.
Response: See Attachment 1d.

The utility did not include the required information above. The utility should provide the information outlined above for Green Fairways, Inc., Smith Oropeza, P.L., Keys Environmental, Inc., and Key West Golf Club.

2. Rule 25-30.437, F.A.C., requires that each Class A utility applying for a rate increase shall provide the information required by Commission Form PSC/ECR 20 (11/93), entitled "Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements." The following MFR schedules, as filed, do not comply with Rule 25-30.437, F.A.C.:
- a. On MFR Schedule B-8, Column (2) does not tie to the amounts approved in Order No. PSC-09-0057 PAA-WS on lines 8, 15, and 23.
Response: See Attachment 2a.
- b. The ERCs found on MFR Schedule B-8 do not match the Annual Reports for 2014. Please revise the schedule to reflect the correct ERCs for 2014.
Response: See Attachment 2b.

Should you or staff have any questions regarding this filing, please do not hesitate to give me a call.

Very truly yours,



MARTIN S. FRIEDMAN
For the Firm

MSF/
Enclosures

cc: Chris Johnson (via email)
Bart Smith, Esquire (via email)
Debbie Swain (via email)
Martha Barerra, Esquire (via email)
Erik Sayler, Esquire (via email)

ATTACHMENT 1a

Related Party Transactions

Florida Public Service Commission

Company: K W Resort Utilities Corp

Docket No.: 150071-SU

Test Year Ended: 12/31/2014

Interim Final

Historical Projected

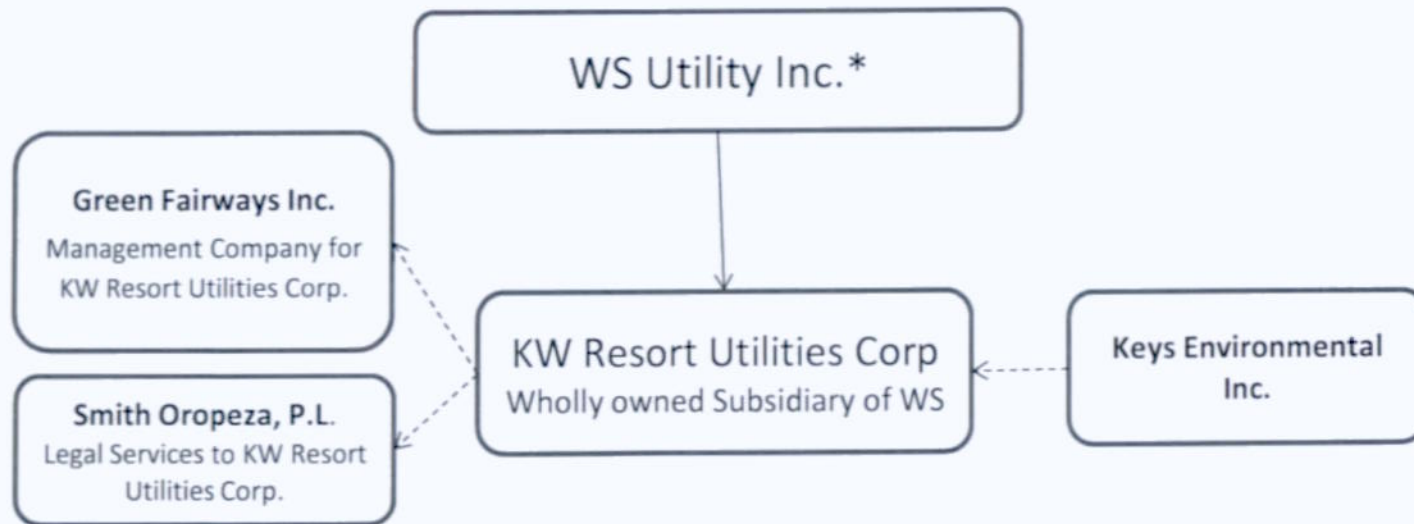
Explanation: Provide certain detail for Related Party Transactions

Page 1 of 2
Preparer: Milian, Swain & Associates, Inc.

Line No.	(1) Name	(2) Relationship	(3) Amount	(4) If total exceeds 1% TY revenues		(6) Allocation		(8) Direct charge method	(9) Organizational Chart	(10) Contracts
				(4) Detailed Itemization	(5) Amount	(6) Method	(7) Calculation			
1	Green Fairways	shared ownership	\$ 60,000	see page 2 of 2		N/A	N/A	\$5,000 per month	Attached	Attached
2	Smith Oropeza	shared ownership	\$ 47,217	see page 2 of 2		N/A	N/A	Actual time spent at hourly rate per contract	Attached	Attached
3	Keys Environmental	owned by Utility officer	\$ 11,730	N/A	N/A	N/A	N/A	Hourly rate per contract for actual time spent	Attached	Attached
4	Key West Golf Club	shared ownership (family member)	\$ 3,100	N/A	N/A	N/A	N/A	Direct reimbursement	N/A	N/A

Company: K W Resort Utilities Corp
Docket No.: 150071-SU
Scheduled Year Ended: 12/31/2014

Parent / Affiliate Organization Chart - REVISED



*Ownership of WS Utility Inc. is as follows:
70% William Smith
10% Alexander Smith
10% Leslie Johnson
10% Barton Smith

Related Party Transactions
 Detailed Itemization for Charges in Excess of 1% TY Revenues

Florida Public Service Commission

Company: K W Resort Utilities Corp

Docket No.: 150071-SU

Test Year Ended: 12/31/2014

Page 2 of 2

Interim Final

Preparer: Milian, Swain & Associates, Inc.

Historical Projected

Explanation: Provide certain detail for Related Party Transactions

	(1)	(2)	(3)	(4)	(5)
Line No.	Name	Detailed Itemization	Amount per G/L	Adjust-ments to G/L (B-3)	Adjusted Amount
1	Green Fairways				
2	Monthly fee of \$5,000 per contract		\$ 60,000	\$ -	\$ 60,000
3	Smith Oropeza				
4	Defense of Last Stand		\$ 23,482	\$ 19,593	\$ 43,075
5	Rate Case Expense		\$ 21,202	\$ (19,593)	\$ 1,609
6	Preliminary Investigation		\$ 205	\$ -	\$ 205
7	Contract Services - Legal		\$ 2,328	\$ -	\$ 2,328
8	Total Smith Oropeza		\$ 47,217	\$ -	\$ 47,217
9	Total per Annual Report		\$ 47,217		

ATTACHMENT 1d

MANAGEMENT AGREEMENT

between

KW RESORT UTILITIES CORP.,

a Florida corporation

and

GREEN FAIRWAYS, INC.,

an Illinois corporation.

Effective Date: July 1, 1999

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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.
- "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.

"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.

MANAGEMENT AGREEMENT

THIS AGREEMENT is made effective as of the First day of July 1999, between KW RESORT UTILITIES CORP., a Florida corporation (the "Owner") and GREEN FAIRWAYS, INC., an Illinois corporation (the "Agent").

W I T N E S S E T H :

WHEREAS, the Owner owns fee title to that certain parcel of real property located on Stock Island, Monroe County, Florida described on Exhibit A annexed hereto, 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

WHEREAS, the System currently consists of a 499,000 gallon per day waste water treatment plant, related effluent disposal injection wells, approximately 14,500 feet of waste water collection system, ten (10) 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, 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 Illinois, 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 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 William L. Smith, Jr. or another employee of Agent reasonably acceptable to Owner ("Agent's") 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 William L. Smith, Jr. 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 William L. Smith, Jr. shall leave the employ of Agent or if Agent desires to substitute another employee in place of William L. Smith, Jr. 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 contract with at least one (1) 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 William L. Smith, Jr., 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 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 October 31 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, 1996 and end December 31, 1996 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;
- (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 "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.

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.

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. Intentionally left blank.

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 Wastewater Reuse Agreement, perform all testing, give all notices and otherwise perform all obligations of Owner relating to the detection and existence of Seawater Intrusion. Agent shall at all times endeavor to include expenses for any testing to be performed by outside, independent laboratories within the Approved Budget. Agent shall submit copies of any periodic reports to Owner for Owner's review and approval prior to submission of same to any Regulatory Agency. Agent shall also prepare all periodic financial reports required by Regulatory Agencies, including the Annual Report required by the Florida Public Service Commission. Agent shall submit copies of such reports to Owner for Owner's review and approval prior to submission of same to any Regulatory Agency.

2.13. Employ and Supervise Employees and/or Subcontractors. (a) Subject to the

Approved Budget, Agent shall employ, train, and supervise such employees and/or subcontractors as are necessary for the operation, maintenance and management of the Property and the System and discharge (or cause to be discharged) all persons unnecessary or undesirable to the operation, maintenance and management thereof, including, without limitation, (1) Operations Manager, (2) capable and duly licensed supervisory and operating personnel and related laborers ("System Personnel") to properly, adequately, safely and economically manage, operate and maintain the System in accordance with industry standard practices and in compliance with all applicable law and requirements of all governmental bodies and regulatory agencies, including, without limitation, the Florida Public Service Commission, the U.S. Environmental Protection Agency, the Florida Department of Environmental Regulation, the South Florida Water Management District, the Monroe County Health Department, the national or local Board of Fire Underwriters, and the City of Key West (collectively, the "Regulatory Agencies"), which System Personnel shall be available on-call for emergencies twenty-four (24) hours per day, seven (7) days per week, and (3) one clerical support and customer service employee ("Office Clerk"). The Operations Manager, System Personnel, Office Clerk and any other employees and/or subcontractors hired by Agent and at any time under the employment of Agent are hereinafter sometimes collectively referred to as "Employees".

(b) All matters pertaining to the employment of Employees are the responsibility of Agent, who shall in all respects, be the employer of such Employees. At no time shall the Employees and/or independent contractors and/or their employees be considered employees of Owner. Agent acknowledges and agrees that all costs and expenses arising out of or in connection with the employment and termination of Employees (including, without limitation, compensation, insurance, benefits and compliance with governmental reporting requirements) are expenses of Agent to be paid by Agent from its own funds. Agent shall fully comply with all local, state and federal labor and tax laws and regulations, including, but not limited to, workers' compensation, social security, unemployment insurance, health insurance, hours of labor, wages, working conditions, and other employer-employee related subjects. Agent shall be responsible for the preparation of and shall timely file all local, state and federal labor payroll tax reports and other similar reports, and shall timely make payments of all withholding and other payroll taxes with respect to all Employees. This Agreement is not one of agency between Agent for Owner, but one with Agent engaged independently in the business of managing, operating and maintaining the Property and 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.

(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 \$3,000,000, Workers' Compensation in statutory amounts and Employers' Liability coverages with limits of liability of not less than \$500,000 and Fidelity Bond coverages with limits of liability of not less than \$100,000. Such Fidelity Bond coverages shall be on a blanket basis covering Agent and all those of its employees who have access to or are responsible for the handling of Owner's funds in such reasonable amount and having such deductible as shall be determined from time to time by Owner, underwritten by a bonding company selected by Agent and approved by Owner. In the event Agent is unable to procure such bonds, Owner may (but shall be under no obligation to) attempt to procure such bond at Agent's expense and Agent shall fully cooperate with Owner in this regard.

(c) Agent shall obtain and maintain evidence of current liability insurance (including, without limitation, automobile liability) in amounts acceptable to Owner and/or workers' compensation insurance in statutory amounts from all independent contractors performing services for or on behalf of Owner and/or Agent at the Property or relating to the System prior to commencement of any job.

(d) Owner shall procure and carry at all times at Owner'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 Agent as an insured) automobile liability insurance in statutory amounts covering use of any vehicles owned by Owner and used by Employees and agents of Agent in the accordance with Section 2.13 hereof.

2.15. Compliance. Subject to compliance with the Approved Budget and the prior written approval of Owner as to method and timing, Agent shall comply with and cause the Property and the System to comply with all present and future laws, ordinances, orders, rules, regulations and requirements of the Regulatory Agencies or any other body exercising the functions similar to those of the Regulatory Agencies which may be applicable to the Property (collectively, the "Regulations"), and obtain all necessary Permits (as defined in Section 2.18) for the Property and the System. Agent shall provide to Owner and the Regulatory Agencies any information required for renewal of Permits and/or rate increases. Agent, at Owner's direction, shall also comply with and cause the Property to comply with all terms, covenants and provisions contained in any mortgage, deed of trust or other security agreement,

operating agreement or other agreement now or hereafter encumbering or affecting the Property and any security agreement now or hereafter encumbering or affecting the personal property located at the Property or any portion thereof, and the delivery to Agent of any such document or agreement shall be deemed to be adequate direction by Owner. The costs of such compliance shall be an operating expense borne by Owner to the extent such costs shall be within the Approved Budget or otherwise approved in writing by Owner.

2.16. Dispute Tax Assessments. Agent shall obtain and review the appropriateness of bills for real estate and personal property taxes, improvement assessments and other impositions applicable to the Property and the System which are or may become liens against the Property and shall advise Owner (a) of any material increase in any taxes, (b) whether the amount of any taxes should be challenged, and (c) the means available for obtaining a reduction of taxes, together with its recommendations as to the course of action to be pursued, all such duties to be 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 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;

(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

(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. 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).

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 either at the Property and the System or at Agent's office located at 6450 Junior

College Road, Key West, Florida 33040. 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 accounting and financial transactions as is required to protect Owner's assets from theft, error or fraudulent activity.

(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 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;

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- (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
- (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 October 31, 1998 and on or before October 31 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 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 signature of one authorized officer 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.

(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 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. 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.

(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 \$60,000.00 in twelve (12) installments of \$5,000.00 payable on the tenth day of each month for the then-current month. 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.

In addition, Owner shall pay Agent a fee equal to ten percent (10%) of the cost of all capital expense projects entered into by Owner for supervision and contract management during the term of this agreement.

ARTICLE V. TERM

5.01. Term. This Agreement shall become effective as of July 1, 1999, and shall continue in full force and effect for a term of one (1) year until and including May 31, 2000. This agreement shall be renewable at the end of the current term for a successive term of one (1) year, unless either party gives written notice of its intention not to renew before the expiration of the current term.

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;
- (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 facsimile with confirmed receipt, and shall be addressed:

To Owner: KW RESORT UTILITIES CORP.
6630 Front Street
Key West, Florida 33040
Facsimile: (214) 953-3769

With Copies To: William L. Smith, Jr.
10 South LaSalle, Suite 2660
Chicago, Illinois 60603
Facsimile: (312) 939-7765

To Agent GREEN FAIRWAYS, INC.
10 South LaSalle, Suite 2660
Chicago, Illinois 60603
Facsimile: (312) 939-7765

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, Citicorp, Citibank, N.A., Citicorp Real Estate, Inc. or Aspiration, 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 person on the grounds of race, colors, 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.

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.

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.

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:

OWNER:
KW RESORT UTILITIES CORP.,
a Florida corporation,

AGENT:
GREEN FAIRWAYS, INC.,
an Illinois Corporation,

By: 

William L. Smith, Jr.
President

By: 

William L. Smith, Jr.
President

AMENDMENT AND RESTATEMENT OF MANAGEMENT AGREEMENT

This Amendment and Restatement of Management Agreement is made effective July 1, 2015 between KW Resort Utilities Corp., a Florida Corporation ("Owner") and Green Fairways, Inc., an Illinois Corporation ("Agent").

WHEREAS, the Owner and Agent entered into a Management Agreement July 1, 1999; and

WHEREAS, the parties desire to Amend and Restate said Management Agreement; and

WHEREAS, the Owner owns fee title to that certain parcel of real property located on Stock Island, Monroe County, Florida, described on Exhibit A annexed hereto, 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

WHEREAS, the System currently consists of a 499,000 gallon per day waste water treatment plant, related effluent disposal injection wells, approximately 88,999 feet of waste water collection system, ten (10) 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, Owner desires to engage Agent as an independent contractor to supervise the operation and management of 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 supervisor 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 Illinois, 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 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 William L. Smith, Jr. or another employee of Agent reasonably acceptable to Owner ("Agent's") 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 William L. Smith, Jr. shall govern the Agent. Agent further agrees that throughout the term of this Agreement, Agent's Authorized Supervisor shall visit the Property not less than one (1) 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 William L. Smith, Jr. shall leave the employ of Agent or if Agent desires to substitute another employee in place of William L. Smith, Jr. 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 supervise the operation and maintenance of 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 hire on behalf of the Owner at least two (2) full-time licensed waste water treatment plant operators 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 William L. Smith, Jr., or another person satisfactory to Owner, during the term of this Agreement. The

Operations Manager shall be a full-time employee. The Operations Manager shall be an employee of the Owner, Agent shall immediately notify Owner and Owner shall have the 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 31 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, 2016 and end December 31, 2016 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 buildings and grounds, system equipment replacement or alteration, major infrastructure 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;

(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 Gravity Mains, Force Main, Vacuum Main, or 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 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 party (excluding Customers but including 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.

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 (1) 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, (2) the negligent or willful acts or omissions of Agent's Indemnified Persons or Agent's Independent Contractors, or (3) 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 (1) any acts by Agent’s Indemnified Persons or Agent’s Independent Contractors outside the scope of Agent’s authority under this Agreement, (2) the negligent or willful acts or omissions of Agent’s Indemnified Persons or Agent’s Independent Contractors or (3) 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.

(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 \$60,000.00 in twelve (12) installments of \$5,000.00 payable on the tenth day of each month for the then-current month. 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.

ARTICLE V. TERM

- 5.01. Term.** This Agreement shall become effective as of July 1, 2015, and shall continue in full force and effect for a term of one (1) year until and including June 30, 2016. This agreement shall be renewable at the end of the current term for a successive term of one (1) year, unless either party gives written notice of its intention not to renew before the expiration of the current term.
- 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 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.

ARTICLE VI.

MISCELLANEOUS PROVISIONS

- 6.01. **Notices.** An and all notices required 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 facsimile with confirmed receipt, and shall be addressed:

To Owner: KW RESORT UTILITIES CORP.
6630 Front St.
Key West FL 33040
Facsimile: (214) 953-3769

With Copies To: William L. Smith, Jr.
10 S. LaSalle St.
Suite 2660

Chicago IL 60603
Facsimile: (312) 939-7765

To Agent: GREEN FAIRWAYS, INC.
10 S. LaSalle St.
Suite 2660
Chicago IL 60603
Facsimile: (312) 939-7765

- 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. 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 person on the grounds of race, colors, creed, religion, sex, national origin, or any other basis prohibited by law.
- 6.04. 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.
- 6.05. 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.
- 6.06. 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.

- 6.07. **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.
- 6.08. **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.
- 6.09. **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.
- 6.10. **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.
- 6.11. **Time of the Essence.** Time is of the essence to each provision of this Agreement.
- 6.12. **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.
- 6.13. **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.

- 6.14. **Merger.** This Agreement supersedes all prior agreements or understandings, 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 understand of the parties hereto with respect to the subject matter hereof.
- 6.15. **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.
- 6.16. **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.
- 6.17. **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.
- 6.18. **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.
- 6.19. **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.
- 6.20. **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.
- 6.21. **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

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 THE OWNER TO ENTER INTO THIS AGREEMENT.

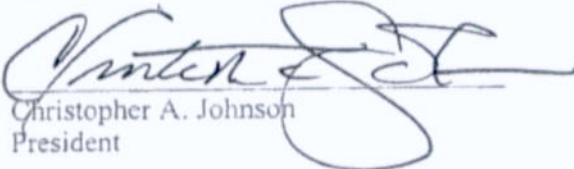
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

Signed, sealed, and delivered in the presence of:

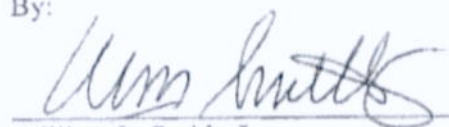
Corporate Officer:
KW RESORT UTILITIES CORP.,
a Florida corporation,

AGENT:
GREEN FAIRWAYS, INC.,
an Illinois corporation,

By:


Christopher A. Johnson
President

By:


William L. Smith, Jr.
President

CONTRACT FOR SERVICES

I, Christopher Johnson, President of K W Resort Utilities Corp. (the "Client"), do hereby retain and employ the law firm of SMITH OROPEZA, P.L. (the "Firm") as my attorneys to represent me in the matter entitled *LAST STAND (PROTECT KEY WEST AND THE FLORIDA KEYS, d/b/a LAST STAND)*, AND *GEORGE HALLORAN v. KEY WEST RESORT UTILITIES CORPORATION*, and *STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*, DOAH CASE NO. 14-5302/OGC CASE NO. 14-0393 for the year 2014.

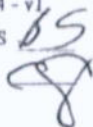
Barton W. Smith, Esq. shall be the attorney primarily assigned to handle routine aspects of all matters. Gregory Oropeza, Patrick Flanigan and Nick Batty shall be the attorneys who will assist Mr. Smith in this matter. Representation is limited to the above reference matter. The Client expressly agrees that the scope of representation and issues to be addressed shall not be expanded without the firm's express agreement.

STANDARD TERMS

In consideration of the foregoing, I agree as follows:

Mr. Smith's hourly rate is \$367.50, Mr. Oropeza's and Mr. Flanigan's hourly rates are \$315.00, and Mr. Batty's hourly rate is \$236.50, and the paralegal's hourly rate is \$105.00. You will be responsible for any disbursements made in connection with your matter. For some matters, additional flat fees above the hourly rates may be required, but we disclose such fees to the client at the time of retention. Factors we consider in applying our fee structure include:

- (a) the time and labor required, the novelty, complexity, and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (b) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
- (c) the fee, or rate of fee, customarily charged in the locality for legal services of a comparable or similar nature;
- (d) the significance of, or amount involved in, the subject matter of the representation, the responsibility involved in the representation, and the results obtained;
- (e) the time limitations imposed by the Client or by the circumstances and, as between attorney and Client, any additional or special time demands or requests of the attorney by the Client;
- (f) the nature and length of the professional relationship with the Client;



- (f) the experience, reputation, diligence, and ability of the lawyer or lawyers performing the service and the skill, expertise, or efficiency of effort reflected in the actual providing of such services; and
- (h) whether the fee is fixed or contingent, and, if fixed as to amount or rate, then whether the Client's ability to pay rested to any significant degree on the outcome of the representation.

The Firm tries to assign work to the lowest cost provider of the service as the Firm deems appropriate. Expedited or unusually tight unanticipated work will sometimes have to be done by a higher cost provider due to the circumstances involved. The Client should assess the need to make any calls or to contact the Firm's attorneys before making a call or contact, as the time for all responses is billable. On the other hand, paralegals and other non-attorneys cannot and do not provide legal advice or counsel and the Client signifies the Client's understanding of this by entering into this agreement. All time spent on a matter prior to formal retention will be billed to the Client's. However, if we are not retained, we will not bill you for such time. We try to invoice for hourly charges and disbursements monthly, usually on the 16th of each month, otherwise as soon as our office can get to its billing.

Failure to promptly pay invoices generally results in termination of our Firm's representation at whatever point we may be, without any requirement on our part for further counsel to the Client or further action on the Client's behalf. Our clients all must and do accept this limitation and also their sole responsibility to take over their legal affairs and obtain other counsel upon our termination for non-payment, or for any other reason, including unfulfilled requests for additional deposits, which amounts are always earned hourly and refundable, should the deposits not be exhausted.

Filing fees, transcription, in-house costs and services, and all specialized services provided through outside sources (for example – paralegal services, investigative services, accounting services, courier services, nursing and medical consulting services, travel services, technology services, and printing services) will be charged to your case based upon the actual or estimated expense incurred by SMITH OROPEZA, P.L. in providing such items. Where estimates are used rather than actual expenses, SMITH OROPEZA, P.L. will consider the costs and availability of such services through outside sources in the local community and shall set its estimates at rates competitive with those outside sources. Our firm sometimes does not charge handling or other processing fees with respect to disbursements incurred and passed on to our clients. However, depending upon the particular handling and processing involved with respect to the variety of reimbursable expenses that can be incurred on our clients' behalves, clients can expect and agree to pay processing and handling fees of a small flat-rate nature commensurate with fees charged by other law firms, or at times, a percentage handling or processing fee of up to 10% of the amount actually paid on a Client's behalf. The Client is also responsible for payment of any sales or service taxes imposed by the State of Florida or any other taxing authority with respect to the services we provide.

[This line purposely left blank, Signature Page to follow]

00040454 - v1

Initials

Handwritten initials, possibly "S.O.", in black ink.

I have read, understand and agree to the terms and conditions set forth in this letter consisting of three (3) pages from Smith | Oropeza | Hawks, P.L.

K W RESORT UTILITIES CORP.

By: 
Christopher Johnson
President

7-21-2015
Date

SMITH OROPEZA, P.L.

By: 
Barton W. Smith, Esq.
Managing Partner

7-21-15
Date

CONTRACT FOR SERVICES

I, Christopher Johnson, President of K W Resort Utilities Corp. (the "Client"), do hereby retain and employ the law firm of SMITH OROPEZA, P.L. (the "Firm") as my attorneys to represent me in general legal representation for the year 2014.

Barton W. Smith, Esq. shall be the attorney primarily assigned to handle routine aspects of all matters. Gregory Oropeza, Patrick Flanigan and Nick Batty shall be the attorneys who will assist Mr. Smith in this matter. Representation is limited to the above reference matter. The Client expressly agrees that the scope of representation and issues to be addressed shall not be expanded without the firm's express agreement.

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- (e) the time limitations imposed by the Client or by the circumstances and, as between attorney and Client, any additional or special time demands or requests of the attorney by the Client;
- (f) the nature and length of the professional relationship with the Client;
- (g) the experience, reputation, diligence, and ability of the lawyer or lawyers performing the service and the skill, expertise, or efficiency of effort reflected in the actual providing of such services; and

CS
CF

- (h) whether the fee is fixed or contingent, and, if fixed as to amount or rate, then whether the Client's ability to pay rested to any significant degree on the outcome of the representation.

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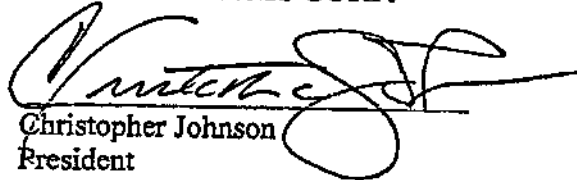
Failure to promptly pay invoices generally results in termination of our Firm's representation at whatever point we may be, without any requirement on our part for further counsel to the Client or further action on the Client's behalf. Our clients all must and do accept this limitation and also their sole responsibility to take over their legal affairs and obtain other counsel upon our termination for non-payment, or for any other reason, including unfulfilled requests for additional deposits, which amounts are always earned hourly and refundable, should the deposits not be exhausted.

Filing fees, transcription, in-house costs and services, and all specialized services provided through outside sources (for example - paralegal services, investigative services, accounting services, courier services, nursing and medical consulting services, travel services, technology services, and printing services) will be charged to your case based upon the actual or estimated expense incurred by SMITH OROPEZA, P.L. in providing such items. Where estimates are used rather than actual expenses, SMITH OROPEZA, P.L. will consider the costs and availability of such services through outside sources in the local community and shall set its estimates at rates competitive with those outside sources. Our firm sometimes does not charge handling or other processing fees with respect to disbursements incurred and passed on to our clients. However, depending upon the particular handling and processing involved with respect to the variety of reimbursable expenses that can be incurred on our clients' behalves, clients can expect and agree to pay processing and handling fees of a small flat-rate nature commensurate with fees charged by other law firms, or at times, a percentage handling or processing fee of up to 10% of the amount actually paid on a Client's behalf. The Client is also responsible for payment of any sales or service taxes imposed by the State of Florida or any other taxing authority with respect to the services we provide.

[This line purposely left blank, Signature Page to follow]

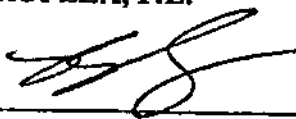
I have read, understand and agree to the terms and conditions set forth in this letter consisting of three (3) pages from Smith | Oropeza | Hawks, P.L.

K W RESORT UTILITIES CORP.

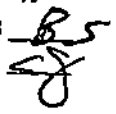
By: 
Christopher Johnson
President

7-21-2015
Date

SMITH OROPEZA, P.L.

By: 
Barton W. Smith, Esq.
Managing Partner

7-21-15
Date



CONTRACT FOR SERVICES

I, the undersigned client, do hereby retain and employ the law firm of BARTON SMITH, P.L. as our attorneys to represent me in our claim against MONROE COUNTY, or any other person, firm, government agency or coporation liable for breach of the contracted dated August 16, 2001 and multiple unpaid service orders which have resulted in unpaid capacity reservation fees and service charges which have caused KW Resort Utilities Corp. to suffer monetary damages for the year 2013.

Barton W. Smith, Esq. shall be the attorney primarily assigned to handle routine aspects of all matters. Patrick Flanigan and Gregory Oropeza shall be the associate attorneys who will assist Mr. Smith in this matter. Representation is limited to the above reference matter. The client expressly agrees that the scope of representation and issues to be addressed shall not be expanded without the firm's express agreement.

STANDARD TERMS

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Mr. Smith's hourly rate is \$367.50, Mr. Flanigan's and Mr. Oropeza's rate is \$315.00, and the paralegal's hourly rate is \$105.00. You will be responsible for any disbursements made in connection with your matter. For some matters, additional flat fees above the hourly rates may be required, but we disclose such fees to the client at the time of retention. Factors we consider in applying our fee structure include:

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- (e) the time limitations imposed by the client or by the circumstances and, as between attorney and client, any additional or special time demands or requests of the attorney by the client;
- (f) the nature and length of the professional relationship with the client;
- (g) the experience, reputation, diligence, and ability of the lawyer or lawyers performing the service and the skill, expertise, or efficiency of effort reflected in the actual providing of such services; and

(h) whether the fee is fixed or contingent, and, if fixed as to amount or rate, then whether the client's ability to pay rested to any significant degree on the outcome of the representation.

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[This line purposely left blank, Signature Page to follow]

Initials

Handwritten initials, possibly "BS", written in black ink.

I have read, understand and agree to the terms and conditions set forth in this letter consisting of three (3) pages from BARTON SMITH, P.L..



Signatory

Christopher A. Johnson
Printed Name

1/13/2014
Date

Initials



CONTRACTING AGREEMENT

This AGREEMENT is between KEYS ENVIRONMENTAL, INC. ., a Florida corporation ("KEI") and KW RESORT UTILITIES, CORP., a Florida corporation ("KWRU"). This AGREEMENT shall be effective as of January 1, 2014.

WHEREAS, KEI desires to engage KWRU to provide labor, and KWRU desires to accept such engagement, all subject to the terms and conditions of this Agreement.

WHEREAS, KEI and KWRU desire to enter into this Contracting Agreement in consideration for KEI remitting to KWRU the sum of Ten and 00/100 (\$10.00) Dollars; and

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

ARTICLE I RESPONSIBILITIES OF KEI AND KWRU

1.01 Hours of Operation. KWRU shall advise KEI in writing, per 4.01 ARTICLE IV, of any change in regular business hours and any changes in company holidays as set forth in 2.01 of ARTICLE II.

1.02 Location of Offices. KEI shall maintain their office at 1212 Von Phister Street, Key West FL, 33040 and shall receive invoices or other materials at this location. KWRU maintains their office at 6630 Front Street, Key West, FL 33040 and can receive payments or other materials at this location.

1.03 Conditions. KEI shall ensure a proper working environment for KWRU. KWRU may refuse work should the working environment not meet the minimum conditions that KWRU deems acceptable.

1.04 Insurance. KWRU, at its own expense, shall obtain and maintain in full force and effect, without interruption during the term of the Agreement, the following minimum levels of insurance:

- a) Commercial General Liability insurance that covers KWRU for claims, incidental or not to the services being provided, including but not limited to personal injury claims (including death) and property damages arising out of the services to be performed by KWRU, at a minimum an amount not less than \$1,000,000 for a single occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate limit.
- b) Automobile Liability insurance covering the legal liability of KWRU engaged in providing services, for claims for personal injuries (including death) and property damage for property belonging to those other than KWRU arising out of the operation of highway licensed vehicles owned or used by KWRU in an amount not less than \$500,000 for a single person; \$500,000 for bodily injury for any one occurrence; \$500,000 for property damage for any once occurrence. Automobile Liability insurance shall provide coverage for owned, hired, leased, or non-owned vehicle or other automotive equipment.

- c) Worker's Compensation insurance covering the legal liability of the KWRU with regard to its workers under the applicable worker's compensation or occupational disease laws for claims for personal injuries (including death) resulting from activities the KWRU is engaged in directly or indirectly.

1.05 Indemnification. All work performed by the KWRU shall be the risk of KWRU exclusively. KWRU hereby indemnifies and holds KEI, its owners, directors, officers, employees and agents, harmless from and against any and all claims, judgements, actions, or expenses, including reasonable attorney's fees, arising directly or indirectly from the work performed, materials furnished, or services provided to KWRU during the term of this Agreement.

ARTICLE II **COMPENSATION**

2.01 Contracting Fees. KEI shall pay KWRU during the term of this Agreement for the performance of work. KWRU is to be compensated hourly to the tenth of an hour. The hourly compensation is to be set according to trade and time that service is to be provided according to the Rate Schedule attached to this Agreement and identified as Exhibit A. Regular business hours are from 7:30AM to 4:00PM Eastern, Monday to Friday and excludes weekends and Holidays. KWRU shall send invoice of work to KEI and KEI shall pay the invoice within 30 days of receipt.

ARTICLE III **TERMINATION**

3.01 Term. This Agreement shall be effective as of January 1, 2014 and shall continue in full force and effect for a term of one (1) year until December 31, 2016 unless either party gives written notice of termination pursuant to 3.02 of ARTICLE III.

3.02 Termination of Service. Notwithstanding anything to the contrary contained in this Agreement, either party may terminate this Agreement for any reason or no reason whatsoever without penalty upon thirty (30) days prior written notice to the other party.

ARTICLE IV **NOTICES**

4.01 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 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 by overnight courier, or if sent electronically by confirmed receipt, and shall be addressed:

KWRU: KW RESORT UTILITIES CORP
6630 Front Street
Key West, FL 33040
Facsimile (305) 295-0143


KEI : KEYS ENVIRONMENTAL INC.
1212 Von Phister, St.
Key West, FL 33040
(305) 797-9983
keysenvironmental@yahoo.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of January 1, 2014.

Signed sealed and delivered in the presence of:

KWRU:
KW RESORT UTILITIES CORP.,
A Florida corporation.

KEI :
KEYS ENVIRONMENTAL, INC.,
A Florida corporation.

By: 
William L. Smith, Jr.
Chairman of the Board


By: 
Christopher Johnson
President

Exhibit A

Rates for KWRU 2014

Mechanic regular business hours	\$ 67.50
Mechanic outside regular hours	\$ 117.00
Helper regular business hours	\$ 49.50
Helper outside regular hours	\$ 71.82
Flag person regular business hours	\$ 49.50
Flag person outside regular hours	\$ 71.77
Engineer PE	\$ 99.00
Electrician regular business hours	\$ 85.50
Electrician outside business hours	\$ 126.00
Inspections	\$ 90.00
Jet rodder	\$ 121.50

NON CONTRACT CLIENTS

Mechanic emergency	\$ 135.00
Helper emergency	\$ 85.50
Flag person emergency	\$ 85.50
Engineer PE	\$ 180.00
Electrician emergency	\$ 144.00
Jet Rodder	\$ 121.50

ATTACHMENT 2a

Company: K W Resort Utilities Corp
 Docket No.: 150071-SU
 Schedule Year Ended: 12/31/2014

Schedule: B-8 REVISED
 Page 1 of 1
 Preparer: Milian, Swain & Associates, Inc.

Explanation: Complete the following comparison of the applicant's current and prior test year O&M expenses before this Commission. Provide an explanation of all differences which are not attributable to the change in customer growth and the CPI-U. If the applicant has not had a previous rate case, use the year 5 years prior to the test year for comparison. Provide an additional schedule, if necessary, to explain differences.

Line No.	(1) Account No. and Name	(2) Prior TY 12/31/06	(3) Current TY 12/31/14	(4) TY Adj.'s per B-3	(5) Adjusted TY	(6) \$ Difference	(7) % Difference	(8) Explanation
1	701 Salaries & Wages - Employees		\$ 449,108	\$ 74,832	\$ 523,940	\$ 523,940	100.00 %	Replaced contractual services with full time employees
2	703 Salaries & Wages - Officers, Etc.		141,792	81,164	222,956	222,956	100.00 %	Replaced contractual services with full time employees
3	704 Employee Pensions & Benefits		92,825	42,762	135,587	135,587	100.00 %	Replaced contractual services with full time employees
4	710 Purchased Sewage Treatment		-	-	-	-	- %	
5	711 Sludge Removal Expense	26,377	39,394	109,334	148,728	122,351	463.86 %	Increase in expenses as a result of changes in operations as a consequence of having to upgrade the WWTP to AWT standards.
6	715 Purchased Power	187,800	146,711	42,900	189,611	1,811	0.96 %	Under Benchmark
7	716 Fuel for Power Purchased	523	-	-	-	-	- %	
8	718 Chemicals	137,761	32,330	224,741	257,071	119,310	86.61 %	Increase in expenses as a result of changes in operations as a consequence of having to upgrade the WWTP to AWT standards.
9	720 Materials & Supplies	77,393	43,885	60	43,945	(33,448)	(43.22) %	Increase in expenses as a result of changes in operations as a consequence of having to upgrade the WWTP to AWT standards.
10	731 Contractual Services - Engr.	65,289	7,270	7,535	14,805	(50,484)	(77.32) %	Replaced contractual services with full time employees
11	732 Contractual Services - Acct.	9,569	11,550	14,212	25,762	16,193	169.22 %	Replaced contractual services with full time employees
12	733 Contractual Services - Legal	15,103	2,328	1,609	3,937	(11,166)	(73.93) %	Replaced contractual services with full time employees
13	734 Contractual Services - Mgmt. Fees	30,000	60,000	-	60,000	30,000	100.00 %	Under Benchmark
14	735 Contractual Services - Testing	-	16,975	20,673	37,648	37,648	100.00 %	Replaced contractual services with full time employees
15	736 Contractual Services - Other	348,344	28,410	37,045	65,455	(282,889)	(81.21) %	Replaced contractual services with full time employees
16	741 Rental of Building/Real Prop.	-	1,100	-	1,100	-	- %	
17	742 Rental of Equipment	-	-	-	-	-	- %	
18	750 Transportation Expenses	-	24,109	-	24,109	24,109	100.00 %	Utility owned vehicles instead of contractual services
19	756 Insurance - Vehicle	-	-	-	-	-	- %	
20	757 Insurance - General Liability	24,646	35,948	2,752	38,700	14,054	57.02 %	Increase in expenses as a result of changes in operations as a consequence of having to upgrade the WWTP to AWT standards.
21	758 Insurance - Workman's Comp.	-	20,729	25,555	46,284	46,284	100.00 %	Replaced contractual services with full time employees
22	759 Insurance - Other	-	-	-	-	-	- %	
23	760 Advertising Expense	1,075	2,764	(1,564)	1,200	125	11.59 %	Under Benchmark
24	766 Reg. Comm. Exp. - Rate Case Amort.	116,654	-	31,200	31,200	(85,454)	(73.25) %	Adjustment needed to include 1/4 Rate Case Expense
25	767 Reg. Comm. Exp. - Other	-	-	-	-	-	- %	
26	770 Bad Debt Expense	-	-	-	-	-	- %	
27	775 Miscellaneous Expenses	18,677	42,443	125,232	167,675	148,998	798 %	Increase in expenses as a result of changes in operations as a consequence of having to upgrade the WWTP to AWT standards.
28								
29	TOTAL	\$ 1,059,211	\$ 1,199,672	\$ 840,042	\$ 2,039,714	\$ 979,926	92.51 %	
30								
31	Total Customers (ERC's)	1,585.0			4,039.2	2,454	154.84 %	
32	Consumer Price Index - U	201.600			236.736	35.14	17.43 %	
33								
34	Benchmark Index: Increase in Customer ERC's					2.5484		
35	Increase in CPI					1.1743		
36						2.9926		

ATTACHMENT 2b

Company: K W Resort Utilities Corp

Docket No.: 150071-SU

Test Year Ended: 12/31/2014

Interim [] Final [x]

Historical [x] Projected []

Preparer: Seidman, F.

Explanation: Provide reconciliation of ERCs to Annual Report

Col. 5, line 31 of Revised MFR Schedule B-8 shows 4039.2 ERCs for TY 2014. PSC Staff has asked that the utility reconcile that number with the ERCs shown in the 2014 Annual Report. ERCs are shown in the Annual Report at page S-11. There are two amounts on that page. The reconciliation of each is shown below:

Reconciliation part 1.

ERCs per Revised MFR Schedule B-8	4,039.2
Meter Equivalents per AR page S-11	2,379.0

These amounts cannot be directly reconciled because the ERCs on Revised MFR Schedule B-8 are determined by gpd/ERC gallon equivalents, whereas the Annual Report uses Meter Equivalents based on AWWA continuous gpm meter flow amounts for various meter sizes. The utility's method of determining ERCs is consistent with the method used by the PSC on the bottom of Annual Report page S-11 and on MFR Schedule F-10. See Reconciliation Part 2.

Reconciliation part 2.

Definition of an ERC per Annual Report page S-11 and MFR Schedule F-10:

Annual Single Family Residence (SFR) gallons sold/Average SFRs = gallons per SFR
 Dividing the above by 365 days = gpd/SFR = 1 ERC.

	<u>per S-11</u>	<u>per F-10</u>	Diff.
Annual SFR Gallons sold	75,085,420	78,848,000	
Average SFRs	<u>1,548</u>	<u>1,594</u>	
Gallons per SFR	48,505	49,465	
divide by	<u>365</u>	<u>365</u>	
gpd/SFR = 1 ERC	132.89	135.52	1.98%

The results are consistent, the difference being that the Annual report uses raw numbers and the MFR uses numbers reconciled to actual billing.

The ERCs on B-3 and F-10 are determined by dividing total gallons sold by the gallons/ERC.

from F-10: $199,803,000/49,465 = 4039.2$ ERCs. This is what is used on MFR Schedule B-3.

Test of reasonableness

There is no way to determine ERCs for 2006 in the same manner, because as pointed out in MFR Schedule F-10 in the 2006 case, "the majority of the Utility's customers are [at that time] unmetered flat rate." But there is a way to test whether the increase in ERCs from 2006 to 2014 is reasonable using available data. The annual reports for both 2006 and 2014 show total wastewater gallons treated. The percent change in flows over the period between 2005 and 2014 is a reasonable proxy for the growth in ERCs as measured by flows:

	<u>WW Treated</u>	<u>ERCs from B-8</u>
2014	168,313	4,039.2
2006	<u>63,875</u>	<u>1,585.0</u>
Percent change	163.50%	154.84%

The use of the ERCs as shown on Revised B-8 produces a reasonable result.