



Community Development District

**Board of Supervisors
Public Hearing and Regular Meeting**

October 17, 2018

8:30 a.m.

505 Whiskey Creek Drive
Marco Island, FL 34145

AGENDA

Note: Requests to address the Board on all subjects, which are not on today's agenda, will be accommodated under "Public Comments". Public comments are limited to a maximum of three (3) minutes per attendee in order to facilitate orderly and efficient District business.

Any person who decides to appeal a decision of this Board will need a record of the proceedings pertaining there to and may need to ensure that a verbatim record of these proceedings is made at their expense.

Any person requiring special accommodations at this meeting because of a disability of physical impairment should contact the District Office at 239-394-4346 at least five days prior to the meeting.

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Audience Questions and Comments on Agenda Items**
- 5. Public Hearing Relating to Adoption of Roadway User Rate and Enforcement Rule**
 - a. Affidavit/Proof of Publication
 - b. Public Comment and Testimony
 - c. Board Comment and Consideration

- d. Consideration of Resolution 2019-01: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEY MARCO COMMUNITY DEVELOPMENT DISTRICT MAKING CERTAIN FINDINGS; ADOPTING A ROADWAY USER RATE AND ENFORCEMENT RULE; AND ADDRESSING CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

6. Approval of Previous Meeting Minutes

- a. August 16, 2018 Budget Hearing
- b. August 16, 2018 Regular Meeting

7. Specific Items of Old Business

- a. Update on Insurance Coverage
- b. Status of Gatehouse Projects
- c. Landscaping Maintenance Contract
- d. Street Light Update – Dave DiPrato

8. Specific Items of New Business

- a. Request HOA to use email list to email Notice of CDD Annual Meeting

9. District Counsel – Greg Urbancic, Coleman, Yovanovich & Koester, P.A.

- a. Resolution 2018-02 Statewide Mutual Aid Agreement Approving the Florida Statewide Mutual Aid Agreement

10. District Finance

- a. Financial Report
 - i. Financial Statement Month Ending August 31, 2018

11. District Manager

- i. FEMA Update & Case Manager Appointment

12. Supervisors Request and Comments

13. Audience Questions and Comments

14. Schedule Next Meeting Date and Time

15. Adjournment

**KEY MARCO COMMUNITY DEVELOPMENT DISTRICT
2018-2019 BUDGET HEARING
AUGUST 16, 2018**

The Board of Directors of the Key Marco Community Development District met on Thursday, August 16, 2018, at 8:30 a.m. at the Key Marco Community Center, Marco Island, Florida.

APPEARANCES: Maureen McFarland, Chairman, Treasurer
Mary Beth Schewitz, Vice Chairman
Dawn Aitkenhead, Supervisor
Luanne Kerins, Supervisor

ALSO PRESENT: Katie Maline, Manager

2018-2019 BUDGET HEARING

CALL TO ORDER/ROLL CALL

Mrs. McFarland called the meeting to order, and three supervisors were in attendance, which constituted a quorum.

APPROVAL OF AGENDA

The Agenda was approved on a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead.

AUDIENCE QUESTIONS AND COMMENTS ON AGENDA ITEMS

No comments were received from the audience at this time.

DISTRICT FINANCE

On a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead, the Proposed 2018 – 2019 General Fund Budget was unanimously approved by the Board.

On a MOTION by Mrs. Aitkenhead and a second by Mrs. Schewitz, Resolution 2018-07, the Annual Appropriations Budget beginning October 1, 2018 and ending September 30, 2019 was unanimously approved by the Board.

On a MOTION by Mrs. Aitkenhead and a second by Mrs. Schewitz, Resolution 2018-08, the Assessment Levy and Roll for Fiscal Year 2018-2018 was unanimously approved by the Board.

No comments were received from the District Manager or the Supervisors.

AUDIENCE QUESTIONS AND COMMENTS

Mr. Krutisch briefly questioned the method of bookkeeping that Inframark uses which he found confusing, and Mrs. McFarland explained the process which is completely automated and the format is compliant with the appropriate standards. Mrs. McFarland and Mr. Krutisch will meet and discuss this outside of the meeting.

ADJOURNMENT

On a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead, the Budget Hearing was then adjourned.

**KEY MARCO COMMUNITY DEVELOPMENT DISTRICT
BOARD OF SUPERVISORS REGULAR MEETING
AUGUST 16, 2018**

The Board of Directors of the Key Marco Community Development District met on Thursday, August 16, 2018, began at 8:46 a.m. at the Key Marco Community Center, Marco Island, Florida.

APPEARANCES: Maureen McFarland, Chairman, Treasurer
Mary Beth Schewitz, Vice Chairman
Dawn Aitkenhead, Supervisor
Luanne Kerins, Supervisor

ALSO PRESENT: Katie Maline, Manager

The Board then moved into the Regular Monthly Meeting.

CALL TO ORDER/ROLL CALL

Mrs. McFarland called the regular meeting to order at 9:45 a.m., and noted that three members were in attendance which constituted a quorum.

APPROVAL OF AGENDA

On a MOTION by Mary Beth Schewitz and a second by Dawn Aitkenhead, the Agenda was unanimously approved by the Board.

AUDIENCE QUESTIONS AND COMMENTS ON AGENDA ITEMS

Mr. Tsandoulas asked about the Ellen's Garden under Old business and was advised that it would be addressed at that point. He also mentioned that the spelling was incorrect and should be "Ellin's".

APPROVAL OF MAY 17, 2018 REGULAR MEETING MINUTES

The riprap under the Bougainvillea at Captain Horr's House has not yet been done, but a proposal has been received.

Mrs. Maline was asked to ensure the work is complete before the next meeting. It was noted by Luanne that they decided against installing any ice plants.

The gate cameras are on hold until the cameras are set up at the marina to ensure that the cameras we choose are suitable.

On a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead the May 17, 2018 minutes were unanimously approved.

APPROVAL OF JUNE 5, 2018 REGULAR MEETING MINUTES

At the bottom of the last page of the minutes the sentence beginning “31 Percent of the money the CDD collects...” should be deleted.

On a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead the June 5, 2018 minutes were unanimously approved as revised.

APPROVAL OF JUNE 21, 2018 REGULAR MEETING MINUTES

On Page 5 under Proposed Budget for Fiscal Year 2018-2019, the sentence should read, “The double entry has been deleted from the new budget, and an overview was provided.”

Mrs. McFarland also asked the Board to keep in mind that Crawford’s contract ends in February of 2019.

On Page 6, the date noted in the Resolution should be August 16, 2018.

On a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead the June 21 minutes were unanimously approved as revised.

SPECIFIC ITEMS OF OLD BUSINESS

A. Appointment of Luanne Kerins to the Board.

Luanne Kerins has agreed to take over the remainder of Johanna Parkes’ seat on the Board, to specialize in community landscaping, working with Mrs. Maline. As a reminder of the way Chapter 190 of the Statutes works, Mrs. Maline as the District Manger will work with Mrs. Kerins to make sure everything gets done, and Mrs. Kerins as a member of the Board will advise the other members at regular meetings.

On a MOTION by Mrs. Schewitz and a second by Mrs. Aitkenhead, Mrs. Kerins was unanimously appointed to fulfill Mrs. Parkes’ term on the Board.

B. Status of Ellin’s Garden

Work has already begun on the newly named” Lu’s Garden”. This should be completed before the next meeting.

C. Status of Gatehouse Roof Replacement

The City will release the permit once an insurance document is received from the contractor. The dumpster is being delivered and the present roof will be removed very soon. Reimbursement of \$15,000 was received from the insurance company for the roof.

Pricing is being obtained for a portable news kiosk which can be set outside in the member’s entry lane when postings are necessary.

D. Landowner's Meeting

A brief discussion was held regarding voting requirements for the landowners meeting and what is required. The proxy ballot is on the website, and the Board agreed that Mrs. McFarland and Mr. Urbancic will decide how to distribute proxy ballots for the landowner's meeting.

E. Status of Gatehouse Landscaping

In response to Mrs. Aitkenhead's concerns, Mrs. Maline met with Brian, the account manager from Crawford, regarding the status of the plantings, and another employee will be handling it from this point forward. The area is overgrown and weedy and the pavers are dirty and Mrs. Aitkenhead was asked by the Board to make the gatehouse issue her key priority. Mrs. Maline and Mrs. Aitkenhead will work together to bring the gatehouse up to their expectations, and will keep the Board advised. Both Mrs. Maline and Mrs. Aitkenhead expect that the work will be done by the next meeting.

F. Gatehouse Painting and Gutters

Cypress Access will be coming to paint the gate arms that were missed on the first go around. Three companies have been solicited to submit proposals for gutters on the gatehouse.

(Mrs. Kerins then left the meeting.)

G. RFP for Landscaping Maintenance

A determination is being made whether putting this work out for bid will be required, and this will be addressed at the September meeting.

SPECIFIC ITEMS OF NEW BUSINESS

A. Theft Insurance/Fifth Third Bank Procedures

Mrs. McFarland advised that the CDD does not have a commercial crimes policy and was advised that a premium of \$1,000 +/- would cover the Board up to \$1,000,000. She will also implement a procedure at Fifth Third where Mrs. McFarland must approve any check written against their account which is over \$25,000, and she will also call their Grau & Associates for feedback.

B. Vacancy of Seat 2 on the Board.

This item was addressed earlier, and Mrs. Kerins will be filling this vacancy.

C. Possible Open Board Chair

There is a possibility of a future vacancy on the Board, and Mrs. McFarland asked Mr. Cartwright if he would be willing to serve until the election in November, to ensure a quorum at meetings. A MOTION was then made by Mrs. McFarland and second by Mrs. Schewitz that if another vacancy occurs on the Board, that Mr. Cartwright be approved by the Board to fill that vacancy until the November election. The Board unanimously approved the Motion.

It was noted that Mrs. Kerins has been provided with the Financial Disclosure form required of Board members.

DISTRICT COUNSEL

Mr. Urbancic will address any items he has at the September meeting.

FINANCES

Mrs. Maline sees the monthly report from Inframark that includes all revenue and expense transactions. She also checks the coding to make sure they are correct, and indicated that she is comfortable with the Financials ending June 30.

DISTRICT MANAGER'S REPORT

A. Street Light update

Several lights remain out, and \$50,000 has been received from insurance to fix the streetlights. An accurate analysis of streetlight replacement and repair will be done and Casagrande Electric has recommended that the streetlights be switched to solar power, as it will cost several hundred thousand dollars to meter all the lights.

Mrs. Maline and Mr. DiPrato will look into the savings involved in having the street lights on the two CDD roads turned off at midnight by LCEC as well as any legal implications that may exist. Copies of Casagrande's recommendation will be given to the Board members and the resident engineers at Key Marco for their thoughts and ideas. This item will be revisited over the next few meetings.

B. FEMA Project List/Current Status

The dollar amounts are not yet listed on the FEMA paperwork but once the sub-grant agreement is signed the dollar amount will be posted. Mrs. Maline will print the list out monthly that provides information on what has been funded, and provide it to the Board.

Mrs. McFarland and Mrs. Maline will meet and go over the entire eight categories within the grant agreement, and the FEMA case manager will be invited to come join them and walk through the process. Anyone who is interested is invited to attend.

C. Ownership Legend on HOA/CDD Properties

Mrs. Maline provided a map to the Board members showing these designations, which was created by Johnson Engineering. She walked those present through it. It is available in an electronic format if anyone would like a copy.

D. Crawford Landscaping Proposals

1. Swales to Catch Basins

This work would involve cutting the sod, re-pitching the swale towards the catch basins and replacing the sod, and is much less expensive than originally expected. Mrs. Maline recommend approval.

On a MOTION by Mrs. McFarland and a second by Mrs. Schewitz, the Board unanimously approved the swale work to be done by Crawford.

2. 2018 Hurricane Season Storm Cleanup

Crawford provided a list of costs for this work if needed this season, and Mrs. Maline recommended approval of the proposal.

On a MOTION by Mrs. Aitkenhead and a second by Mrs. McFarland, the proposal from Crawford was approved.

SUPERVISORS REQUESTS AND COMMENTS

1. Fishkind Roadway Usage Fee Study Report

Mrs. McFarland is continuing to work with Fishkind on the report for charging entry into Key Marco. The next meeting will be held on September 9th and Mr. Earlywine will be asked to come and give a report on what Fishkind is recommending and the timetable if they move forward.

2. Day Change for Meeting

The Board agreed that regular monthly meetings will be held on Wednesdays rather than Thursdays in the future.

3. Bonuses to Contractors

The appropriateness of giving bonuses to contractors will be discussed in the coming months.

NEXT MEETING DATE AND TIME

As noted above, the September meeting will be held on Friday, the 7th, and starting in October the meetings will be changed to the third Wednesday of the month rather than Thursday which will be October 17th.

On a MOTION by Mrs. McFarland and a second by Mrs. Aitkenhead the meeting was then adjourned at 9:55 a.m.

RESOLUTION 2019-01

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE KEY MARCO COMMUNITY DEVELOPMENT DISTRICT MAKING CERTAIN FINDINGS; ADOPTING A ROADWAY USER RATE AND ENFORCEMENT RULE; AND ADDRESSING CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

District Authority

WHEREAS, the Key Marco Community Development District (“**District**”) is a local unit of special purpose government established pursuant to Chapter 190, *Florida Statutes*, and by Ordinance 92-45 adopted by the Board of County Commissioners of Collier County, Florida, effective July 7, 1992; and

WHEREAS, pursuant to Chapter 190, *Florida Statutes*, the District is authorized to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures, including but not limited to roads, bridges, water management systems, and appurtenant facilities; and

WHEREAS, pursuant to County Ordinance 92-85, as well as Section 190.012(2), *Florida Statutes* (2017), the District is further authorized to provide for security within the District, including, but not limited to guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars; and

The District’s \$12.68 Million Capital Improvement Project

WHEREAS, in 1992, the District issued its \$14,460,000 Special Assessment Revenue Bonds, Series 1992 (“**1992 Bonds**”) for the purpose of financing, constructing and/or acquiring all or a portion of its capital improvement plan, which as described in the District’s *Engineer’s Report* dated July 30, 1992, included among other things, the community’s roads, bridge and street lights (together estimated to cost approximately \$7.4 million), as well as appurtenant landscaping, irrigation, stormwater improvements, and other improvements – the total cost of which was estimated to be approximately \$12.68 million; and

WHEREAS, pursuant to Resolution 92-4 adopted August 4, 1992, and to secure the repayment of the 1992 Bonds, the District’s Board levied and imposed special assessments (“**Assessments**”) on the 134 lots planned for the community; and

WHEREAS, in 2004, the 1992 Bonds were refunded with the issuance of the District’s \$5,370,000 Special Assessment Revenue Refunding Bonds, Series 2004, which were then repaid over time through the collection of the Assessments from the 134 lots and ultimately retired in 2013; and

WHEREAS, using proceeds from the 1992 Bonds, the District’s project was constructed, and the District presently owns and operates the community roadways, bridge, and gatehouse, and the appurtenant stormwater, landscaping, irrigation and hardscaping improvements abutting the roadways (together, “**District Improvements**”); and

Roadway Operations

WHEREAS, the District presently funds the operation and maintenance of the District Improvements by levying and imposing annual operations and maintenance assessments on the 134 platted lots within the District’s boundaries, of which only 28 lots have occupied homes; and

WHEREAS, all of the District’s resources are used for operating and maintaining the roadways within the community, which roads are limited in nature, consist entirely of two roads (i.e., Whiskey Creek Drive and Blue Hill Creek Drive), have a single entrance and exit near County Road No. 92, and are served by a gatehouse at that entry/exit; and

WHEREAS, the community plat, titled “Horr’s Island a.k.a Key Marco” and recorded at Plat Book 21, pages 5 et seq., of the Official Records of Collier County, Florida, provides that:

- The roadway tract is “dedicated as a roadway . . . , expressly reserved herein for the use, benefit and enjoyment of the Subdivider, Key Marco Community Development District, . . . Key Marco Community Association, Inc., . . . any agents, employees, invitees or designees of the foregoing and all owners of the property within the limits of said plat, their family members, guests invitees and lessees and their family members, guests and invitees . . . ;” and
- “[E]xcept as otherwise expressly stated in this dedication, nothing in this dedication or otherwise in this plat shall be deemed to be a dedication to the public;” and
- “Key Marco Community Development District shall have the right to adopt rules, regulations and requirements governing the use of all property dedicated to, or to be maintained by, it pursuant hereto;” and

WHEREAS, for Fiscal Year 2018, the District’s operating budget amounted to \$868,146, which the District partially funded through the levy of annual operations and maintenance assessments on the existing lots within the community at a per unit assessment of \$4,700 per lot (\$629,800 total); and

WHEREAS, while the District’s property owners pay for the operation and maintenance of the District Improvements, the District’s roadways are used by not only current District owners but also by non-owners; and

WHEREAS, such traffic from non-owners has resulted in an increased demand on the District Improvements, including wear and tear on the District’s roadways and other infrastructure, additional security needs, increased demand for waste collection and disposal on District common properties, and other costs and expenses; and

Rule Making Proceedings

WHEREAS, the District’s Board of Supervisors desires to establish user rate(s) in order to recover some of the cost of operating the District’s roadways from those non-owners who use the roads; and

WHEREAS, Section 190.035(1), *Florida Statutes*, authorizes the District to prescribe, fix, establish and collect rates for the use of the District’s facilities and services, provides for the imposition of penalties to enforce the same, and states:

“The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as ‘revenues,’ and to revise the same from time to time, for the facilities and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district facility or system; and

to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent;” and

WHEREAS, Section 190.035(3), *Florida Statutes*, among other laws, requires that any such rates be fair and reasonable, and states:

“Such rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the number of average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis;” and

WHEREAS, Section 190.035(2), *Florida Statutes*, requires that a public hearing be held prior to the adoption of any such rates, stating that:

“[n]o such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges . . .;” and

WHEREAS, attached hereto as **Exhibit A** is a rule (“**Rule**”) that would impose user rates for use of the District’s roadways, and provide for enforcement of the same; and

WHEREAS, the District has retained a qualified consultant who has prepared an expert report analyzing the costs of operating the District’s roadways and appurtenant facilities and proposing user rate(s) for access to the roadways, which report is attached hereto as **Exhibit B**, and which report serves as the basis for the Rule; and

WHEREAS, on September 7, 2018, the District’s Board adopted Resolution 2018-09, and, pursuant to such resolution, the District advertised rule-development and rule-making proceedings to consider the Rule, and held a public hearing on October 17, 2018 to consider public comment regarding the final adoption of the Rule; and

WHEREAS, based on **Exhibit B**, and after considering all public comment and testimony provided at the hearing, the District’s Board hereby finds and determines that the Rule, including the user rates established thereunder, are fair and reasonable, just and equitable, uniform for users of the same class, and otherwise consistent with the requirements of Section 190.035, *Florida Statutes*, and other applicable law; and

WHEREAS, the Board of Supervisors finds that it is in the best interests of the District to adopt by resolution the Rule attached hereto as **Exhibit A** for immediate use and application;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KEY MARCO COMMUNITY DEVELOPMENT DISTRICT:

1. **AUTHORITY FOR THIS RESOLUTION; INCORPORATION OF RECITALS; MAKING CERTAIN FINDINGS.** This Resolution is adopted pursuant to the provisions of Florida law, including without limitation Chapters 120 and 190, *Florida Statutes*. The recitals stated above are

incorporated herein and are adopted by the Board as true and correct statements, and constitute specific findings of the District's Board of Supervisors.

2. **ADOPTING ROADWAY USER RATE AND ENFORCEMENT RULE.** The Rule attached hereto as **Exhibit A** is hereby adopted pursuant to this Resolution. The Rule shall stay in full force and effect until such time as the Board of Supervisors may amend the Rule in accordance with Chapter 190, *Florida Statutes*.

3. **CONFLICTS.** All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, superseded and repealed.

4. **SEVERABILITY.** If any section or part of a section of this Resolution is declared invalid or unconstitutional, the validity, force, and effect of any other section or part of a section of this Resolution shall not thereby be affected or impaired unless it clearly appears that such other section or part of a section of this Resolution is wholly or necessarily dependent upon the section or part of a section so held to be invalid or unconstitutional.

5. **EFFECTIVE DATE.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 17th day of October, 2018.

ATTEST:

**KEY MARCO COMMUNITY
DEVELOPMENT DISTRICT**

Print Name: _____
Secretary/Assistant Secretary

Chairperson

Exhibit A: Roadway User Rate and Enforcement Rule

Exhibit B: *Roadway User Rate Report*, dated September 7, 2018, prepared by Fishkind & Associates

EXHIBIT A

Key Marco Community Development District Roadway User Rate and Enforcement Rule

Law Implemented: ss. 190.011, 190.035, Fla. Stat. (2017)

Effective Date: October 17, 2018

In accordance with Chapters 190 and 120 of the *Florida Statutes*, and at a duly noticed public meeting and after a duly noticed public hearing, the Board of Supervisors of the Key Marco Community Development District adopted the following rule establishing user rates for roadways and providing for enforcement. All prior rules of the District, if any, governing this subject matter are hereby superseded on a going forward basis.

1. **Introduction.** This rule (“Rule”) establishes user rates for the District’s roadways, and provides for enforcement of the same.

PART 1: Roadway User Rates

2. **Definitions.** The following definitions apply to this Rule:

“**Owner Access Card**” – shall mean an access card or other similar device authorized by the District pursuant to this Rule for access to the District’s roadways.

“**District Office**” – refers to the District’s primary office, located at 505 Whiskey Creek Drive, Marco Island, Florida 34145, as well as the District’s gatehouse located on Whiskey Creek Drive.

“**Family**” – shall mean a group of individuals living under one roof or head of household.

“**Non-Owner**” – shall mean any person who is not an Owner.

“**Owner**” – shall mean any person (including individuals, entities, trustees, etc.) owning property within the District, including that person’s Family, or any tenant residing in an owner’s home within the District pursuant to a valid rental or lease agreement, including the tenant’s Family residing within the District.

3. **User Rate(s) Payment Required.** Except as otherwise provided herein, all individuals desiring to access the District’s roadways shall either have a valid Owner Access Card or pay the applicable user rate(s) established hereunder. Payment shall be made at the District Office (which includes the District gatehouse) prior to accessing the roadways.

4. **Owner Access Cards.** In consideration of the annual payment of operations and maintenance assessments to the District, Owners can obtain Owner Access Cards from the District Office.

5. **User Rates per Entry.** The following user rates apply to anyone seeking access to the District's roads who does not have an Owner Access Card:

Visitor Type	User Rate per Entry
Visitor (other than 2+ Axle Motorized Vehicle)	\$5
2 Axle Motorized Vehicle	\$10
3+ Axle Motorized Vehicle	\$20

6. **Special Provisions.**

- a. **Owner Guests.** Guests and invitees (including contractors, Florida real estate licensees, etc.) of Owners are exempt from the payment of the rates established under Section 5.
- b. **CDD/HOA Guests.** Staff, guests and invitees (including contractors, Florida real estate licensees, etc.) of the District and the Homeowner's Association visiting the community on official business are exempt from the payment of the rates established under Section 5.
- c. **Emergency/Governmental/Other Special Personnel.** Emergency and other governmental personnel, as well as personnel from utility providers and the University of Florida Foundation, Inc., visiting the community on official business are exempt from the payment of the rates established under Section 5.
- d. **Exceptions.** The District's Board of Supervisors may grant exceptions to this Rule for special events or other circumstances, on such terms as may be determined by the Board in its sole discretion.

PART 2: Enforcement

7. **Enforcement of Penalties/Fines.** If any person is found to have accessed the community without paying the applicable user rate(s) established hereunder, or otherwise violated this Rule, the District shall be entitled to recover the applicable user rate(s) and shall additionally have the right to impose a fine of up to the amount of \$1,000 – in addition to any amounts for actual damages – and collect such user rate(s), fine, damages and attorney's fees pursuant to Florida law.

8. **Legal Action; Criminal Prosecution.** If any person is found to have accessed the community without paying the applicable user rate(s) established hereunder, or otherwise violated this Rule, such person may additionally be subject to arrest for trespassing or other applicable legal action, civil or criminal in nature.

9. **Severability.** The invalidity or unenforceability of any one or more provisions of this Rule shall not affect the validity or enforceability of the remaining portions of this Rule, or any part of this Rule not held to be invalid or unenforceable.

EXHIBIT B

ROADWAY USAGE FEE STUDY REPORT FOR KEY MARCO COMMUNITY DEVELOPMENT DISTRICT

September 7, 2018

Prepared for

Key Marco Community Development District

Prepared by

**Fishkind & Associates, Inc.
12051 Corporate Blvd
Orlando, Florida 32817
407-382-3256**



ROADWAY USAGE FEE STUDY FOR KEY MARCO COMMUNITY DEVELOPMENT DISTRICT

September 7, 2018

1.0 Introduction

1.1 Purpose

The purpose of this report (“Report”) is to provide Key Marco Community Development District (the “District”) with a roadway usage fee study that evaluates the implementation of a fee schedule (for users of the same class) upon entering the community. The roadway infrastructure was originally funded by the District via the issuance of tax-exempt bonds (which are no longer outstanding), which were repaid through the levy and collection of special assessments on all landowners within the community. (Specifically, the District’s capital improvement plan included \$12.68 million of infrastructure, of which the roadways, bridge, and street lights amounted to over \$7.4 million.) Such roadways are limited in nature, and consist only of the spine road named Whiskey Creek Drive and Blue Hill Creek Drive, have a single entrance and exit near County Road No. 92, and are served by a gatehouse at that entry/exit.

This report is designed to conform with Chapter 190.035 of the Florida Statutes, which authorizes the District “to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as “revenues,” and to revise the same from time to time, for the facilities and services furnished by the district...”

1.2 Background

The District represents a local, special-purpose form of government consistent with Chapter 190 of the Florida Statutes, as amended. Moreover, the above-cited statute permits the District to charge users (i.e. visitors) for the facilities and services furnished by the District. Such fee and/or rate may be based upon any factor affecting the use of the facilities on the basis the rate/fee shall be equitable and uniform.

The District was established in 1992 and at this time the infrastructure is in-need of repair. Over the years, the District has welcomed thousands of visitors. In conjunction with the residents of the 30 residential homes (to-date) in the community, it is certainly reasonable to conclude that visitors also have a direct and indirect impact on the infrastructure. Thus, as already enumerated by the Florida Statutes, we believe it is defensible for the District to explore the imposition of a visitor fee schedule to reasonably allocate the costs of the maintenance and upkeep of the infrastructure.

2.0 Methodology

2.1 Overview

We embarked on a number of steps to establish the appropriate metrics to weigh the cost of supporting the infrastructure and to establish a visitor to resident utilization gauge. Our approach encompassed a detailed examination of: (1) the District’s Fiscal Year 2019 Operating Budget to identify all relevant expenditures; (2) visitor traffic logged from 2012 through 2018 YTD procured from the District’s gatehouse Checkpoint System; and (3) a Pavement Conditions and Recommendations Report prepared by Johnson Engineering in June 2017.

2.2 Findings

The District’s Adopted Fiscal Year 2019 Budget details total expenditures of \$644,478, of which most of the Administrative and all of the Lighting components of the budget were excluded. For the sake of this analysis, the consultant endeavored to establish the appropriate operating expenses of the District that reasonably relate to visitors and their respective impact upon the District’s infrastructure. For example, the District allocates capital expenditures for roads. As visitors enter the community, they benefit from the road infrastructure but also contribute to the stress/utilization of such. As exhibited herein, the consultant grossed up the “Capital Outlay - Roads” category to \$253,158 to account for the currently unbudgeted but imminent road repair and improvement expenditures outlined in the Johnson Engineering report. In sum, we calculate relevant Operating Expenditures of \$728,434, which will hereinafter serve as the baseline to establish the allocation of costs.

RELEVANT O&M BUDGETED EXPENDITURES -- "2019 ANNUAL BUDGET"			
<i>Administrative</i>			
ProfServ-Mgmt Consulting	\$72,000		
ProfServ-Engineering	\$5,000		
Insurance - General Liability	\$29,926		\$106,926
<i>Maintenance & Landscaping:</i>			
Contractual Services	\$140,000		
R&M - Trees & Trimming	\$15,000		
Plant Replacement Program	\$10,000		
Exotic Maintenance	\$13,000		
Flower Program	\$5,000		
Mulch Program	\$9,000		\$192,000
<i>Irrigation Services:</i>			
Utilities - Water	\$15,000		
Land Lease	\$31,000		
Utilities - Electric	\$5,000		
Repairs & Maintenance	\$20,000		\$71,000
<i>Capital Expenditures & Projects:</i>			
Bridge Repair	-		
Cap Outlay - Roads	\$253,158		\$253,158
<i>Access Control:</i>			
Contractual Services	\$86,520		
Utilities - Electric	\$10,000		
R&M Gate	\$3,580		
R&M Gatehouse	\$5,000		
Op Supplies - General	\$250		\$105,350
TOTAL			\$728,434

With the underlying goal of evaluating, assessing and reasonably allocating the applicable operating expenses of the District amongst residents and visitors, the consultant thoroughly examined the

	Visitors	Guest of		Total
		Resident	Contractors	
2012	3,647	287	1,809	5,743
2013	4,317	340	2,141	6,798
2014	10,990	865	5,452	17,307
2015	10,393	818	5,156	16,367
2016	8,449	665	4,191	13,306
2017	6,018	474	2,985	9,477
2018	6,350	500	3,150	10,000

Visitor Lane numbers logged by the guard at the checkpoint. We then delineated the Visitor Lane numbers into three distinct categories: (1) Visitors; (2) Guests of Residents; and (3) Contractors.

For the sake of this analysis, we believe it is reasonable to assume that the District would not impose a fee for Guests of Residents and/or Contractors, as residents inherently will absorb the costs attributable to those parties via the O&M Assessments that each lot owner is required to pay on an annual basis. Then, to establish traffic volume attributed to residents of the community, we assumed average daily in-bound trips of four (4) per resident, which equates to 43,800 trips per year.

Residents Trip Analysis		
# of Residents	30	
Avg. Daily Trips (Inbound)	4	
Annual Inbound Volume	43,800	[30*4*365]
Visitor to Resident Utilization	12.66%	
Implied Visitor Share of O&M	\$92,234	[\$728,434 * 12.66%]
OR		
Implied MV Entrance Fee	\$14.53	[\$92,234 / 6350]

MV = Motor Vehicle

Our trip distribution analysis based upon projected 2018 numbers, yields a "Visitor to Resident" utilization of 12.66%, assuming 6,350 Visitors in 2018 and 43,800 annual inbound trips by the residents of the community.

3.0 Conclusion and Supporting Fee Schedule

We believe the District is on solid ground if it elects to implement a fee for visitors to enter the community to support the implied share of the applicable operating and maintenance expenses. The table above illustrates that the Implied Visitor Share / Entrance Fee of a standard motor vehicle is approximately \$14.50.

However, we believe it is important to recognize that the conveyance of the infrastructure maintained by the District imparts value in multiple ways. Two key components of said value include: (1) part of the benefit is accommodating trips (ingress and egress) for residents and visitors alike; and (2) part of the benefit inures to the real estate, which exclusively benefits the residents of the District. Thus, in an effort to establish a fee schedule that is fair, reasonable and defensible, and with the understanding that the District's Board has some discretion to set a fee schedule given the variety of factors that are involved in making such a determination, we suggest a standard motor vehicle fee of \$10, plus or minus \$5. Accordingly, our recommendation is that the District establish the following fee schedule.

FEE SCHEDULE	
Visitor (other than 2+ Axle Motorized Vehicle)	\$5
2 Axle Motorized Vehicle	\$10
3+ Axle Motorized Vehicle	\$20

Thank you for the opportunity to provide our findings and we look forward to

assisting the District in the future as needed. We recommend that the District re-examine the cost drivers every 3-to-5 years upon adoption of any Board of Supervisors approved fee schedule.

RESOLUTION 2019-_____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF KEY MARCO COMMUNITY DEVELOPMENT DISTRICT, STATE OF FLORIDA, APPROVING THE FLORIDA STATEWIDE MUTUAL AID AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the State Emergency Management Act, Chapter 252, Florida Statutes, authorizes the state and its political subdivisions to develop and enter into mutual aid agreements for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted; and

WHEREAS, the Board of Supervisors of Key Marco Community Development District desires to move forward and approve an agreement with the State of Florida, Division of Emergency Management, concerning the Statewide Mutual Aid Agreement; and

WHEREAS, the Florida Department of Economic Opportunity requires an independent special district to participate in the Statewide Mutual Aid Agreement to be eligible for funds under Administrative Rule 27P-19, Base Funding for County Emergency Management Agencies and Municipal Competitive Grant and Loan Programs.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF KEY MARCO COMMUNITY DEVELOPMENT DISTRICT, STATE OF FLORIDA, THAT:

Section 1. The foregoing recitals are true and correct and are hereby ratified and confirmed by the Board of Supervisors.

Section 2. The execution of the attached Statewide Mutual Aid Agreement by the Chair (or the Vice Chair in the Chair's absence) is hereby authorized, and the Agreement is hereby approved.

Section 3. This Resolution shall become effective immediately upon its passage and adoption.

APPROVED AND ADOPTED by the Board of Supervisors of Key Marco Community Development District, Collier County, Florida, this 17th day of October, 2018.

Attest:

**KEY MARCO COMMUNITY
DEVELOPMENT DISTRICT**

Katie Maline, Secretary

Maureen McFarland, Chair

Coleman, Yovanovich & Koester, P.A.
Northern Trust Bank Building
4001 Tamiami Trail North, Suite 300
Naples, Florida 34103-3556
Telephone: (239) 435-3535
Fax: (239) 435-1218

Page: 1
August 31, 2018
File No: 3944-001M
Statement No: 116

Key Marco CDD
c/o Katie Maline
505 Whiskey Creek Drive
Marco Island FL 34145

Attn: Katie Maline

Gen Rep

SENT VIA EMAIL TO: katie@managerkeymarcohoa.org

Fees

08/01/2018	GLU	Review and respond to email correspondence from Chairman on questions relating to quorum and holding of meeting	65.00
08/02/2018	GLU	Telephone conference with Chair on upcoming Board matters	65.00
08/15/2018	GLU	Review agenda for Board of Supervisors meeting	32.50
08/22/2018	GLU	Telephone conference with Maurenn McFarland on meeting matters	81.25
08/28/2018	GLU	Initial review of email correspondence from Katie Maline on setting of road fee	32.50
		Professional Fees through 08/31/2018	276.25
		Total Current Work	276.25
		Balance Due	<u>\$276.25</u>

Hopping Green & Sams

Attorneys and Counselors

119 S. Monroe Street, Ste. 300
P.O. Box 6526
Tallahassee, FL 32314
850.222.7500

===== STATEMENT =====

September 30, 2018

Key Marco Community Development District
505 Whiskey Creek Drive
Marco Island, FL 34145

Bill Number 103055
Billed through 08/31/2018

CDD Special Counsel

KMCDD 00101 JLE

FOR PROFESSIONAL SERVICES RENDERED

08/07/18	JLE	Conference call regarding rulemaking; follow-up regarding the same.	0.40 hrs
08/10/18	JLE	Prepare proposed rule, resolution adopting the same, and rulemaking notices; update research regarding user rates; follow-up regarding the same.	6.80 hrs
08/11/18	JLE	Further research regarding user rates; revise resolution; email correspondence regarding the same.	1.30 hrs
08/16/18	JLE	Review and provide comments on draft report; conference call regarding the same; revise resolution, rule and related documents.	1.20 hrs
08/17/18	JLE	Conference call regarding report; follow-up call; revise documents; email correspondence.	1.90 hrs
Total fees for this matter			\$3,712.00

MATTER SUMMARY

Earlywine, Jere L.	11.60 hrs	320 /hr	\$3,712.00
TOTAL FEES			\$3,712.00
TOTAL CHARGES FOR THIS MATTER			\$3,712.00

BILLING SUMMARY

Earlywine, Jere L.	11.60 hrs	320 /hr	\$3,712.00
TOTAL FEES			\$3,712.00
TOTAL CHARGES FOR THIS BILL			\$3,712.00

Please include the bill number on your check.

KEY MARCO
Community Development District

Financial Statements

(Unaudited)

August 31, 2018

Balance Sheet
August 31, 2018

ACCOUNT DESCRIPTION	GENERAL FUND	FIXED ASSETS FUND	TOTAL
<u>ASSETS</u>			
Cash - Checking Account	\$ 711,964	\$ -	\$ 711,964
Prepaid Items	200	-	200
Fixed Assets			
Land	-	1,969,203	1,969,203
Buildings	-	146,196	146,196
Accum Depr - Buildings	-	(111,345)	(111,345)
Improvements	-	882,684	882,684
Infrastructure	-	6,522,136	6,522,136
Accum Depr - Improvements	-	(681,688)	(681,688)
Accum Depr - Infrastructure	-	(4,204,655)	(4,204,655)
Machinery & Equipment	-	126,860	126,860
Accum Depr - Mach & Equip	-	(33,006)	(33,006)
TOTAL ASSETS	\$ 712,164	\$ 4,616,385	\$ 5,328,549
<u>LIABILITIES</u>			
Accounts Payable	\$ 28,643	\$ -	\$ 28,643
Accrued Expenses	695	-	695
Accrued Taxes Payable	412	-	412
TOTAL LIABILITIES	29,750	-	29,750
<u>FUND BALANCES</u>			
Nonspendable:			
Prepaid Items	200	-	200
Unassigned:			
	682,214	4,616,385	5,298,599
TOTAL FUND BALANCES	\$ 682,414	\$ 4,616,385	\$ 5,298,799
TOTAL LIABILITIES & FUND BALANCES	\$ 712,164	\$ 4,616,385	\$ 5,328,549

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2018

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>AUG-18 ACTUAL</u>	<u>AUG-18 BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
<u>REVENUES</u>							
Interest - Investments	\$ 4,000	\$ 1,278	\$ 333	\$ (945)	\$ 13,710	\$ 3,667	\$ (10,043)
FEMA Revenue	-	(70,024)	-	70,024	-	-	-
Interest - Tax Collector	-	-	-	-	40	-	(40)
Special Assmnts- Tax Collector	629,800	-	-	-	607,890	629,800	21,910
Special Assmnts- Discounts	(25,000)	-	-	-	94	(25,000)	(25,094)
Other Miscellaneous Revenues	100	-	8	8	466	92	(374)
Insurance Reimbursements	-	70,024	-	(70,024)	70,024	-	(70,024)
TOTAL REVENUES	608,900	1,278	341	(937)	692,224	608,559	(83,665)

EXPENDITURES

Administration

P/R-Board of Supervisors	4,000	600	333	267	6,400	3,667	2,733
FICA Taxes	500	46	42	4	353	458	(105)
ProfServ-Engineering	2,000	2,500	167	2,333	7,500	1,833	5,667
ProfServ-Legal Services	25,000	168	2,083	(1,915)	20,355	22,917	(2,562)
ProfServ-Mgmt Consulting Serv	80,000	6,000	6,667	(667)	70,750	73,333	(2,583)
ProfServ-Property Appraiser	9,045	-	-	-	9,045	9,045	-
ProfServ-Special Assessment	1,000	-	-	-	1,000	1,000	-
ProfServ-Tax Collector	13,000	-	-	-	8,790	13,000	(4,210)
Accounting Services	7,200	1,179	600	579	11,983	6,600	5,383
Auditing Services	5,000	-	-	-	4,925	5,000	(75)
Postage	400	5	33	(28)	272	367	(95)
Rentals & Leases	1,500	25	125	(100)	275	1,375	(1,100)
Insurance - General Liability	31,000	-	-	-	27,205	31,000	(3,795)
Legal Advertising	2,000	-	167	(167)	1,852	1,833	19
Miscellaneous Services	500	46	42	4	903	458	445

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2018

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>AUG-18 ACTUAL</u>	<u>AUG-18 BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
Transcript Cost	1,000	260	83	177	1,425	917	508
Computer Support	600	160	50	110	803	550	253
Office Supplies	400	-	33	(33)	476	367	109
Dues, Licenses, Subscriptions	200	-	17	(17)	265	183	82
Total Administration	184,345	10,989	10,442	547	174,577	173,903	674
Field							
Rentals & Leases	500	-	42	(42)	-	458	(458)
Total Field	500	-	42	(42)	-	458	(458)
Maintenance and Landscaping							
Contractual Services	134,000	11,734	11,167	567	127,364	122,833	4,531
R&M-Trees and Trimming	25,000	1,318	2,083	(765)	24,875	22,917	1,958
Plant Replacement Program	20,000	15,630	1,667	13,963	23,416	18,333	5,083
Exotic Maintenance	13,000	-	1,083	(1,083)	116	11,917	(11,801)
Flower Program	5,000	(3,580)	417	(3,997)	1,825	4,583	(2,758)
Irrigation Supplies	3,000	-	250	(250)	38	2,750	(2,712)
Land Lease	31,000	-	2,583	(2,583)	-	28,417	(28,417)
Mulch Program	15,000	417	1,250	(833)	9,923	13,750	(3,827)
Misc-FEMA Expense	-	-	-	-	150,311	-	150,311
Total Maintenance and Landscaping	246,000	25,519	20,500	5,019	337,868	225,500	112,368
Irrigation Services							
Contractual Services	6,100	125	508	(383)	1,700	5,592	(3,892)
Utility - Water	15,000	3,017	1,250	1,767	21,874	13,750	8,124
Utilities-Electric	5,000	71	417	(346)	1,810	4,583	(2,773)
Lease	31,000	2,553	2,583	(30)	28,083	28,417	(334)
Repairs & Maintenance	15,000	3,275	1,250	2,025	18,534	13,750	4,784

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2018

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>AUG-18 ACTUAL</u>	<u>AUG-18 BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
Total Irrigation Services	72,100	9,041	6,008	3,033	72,001	66,092	5,909
<u>Capital Expenditures & Projects</u>							
Street Light Project	37,000	-	3,083	(3,083)	5,000	33,917	(28,917)
Bridge Repair	15,000	-	1,250	(1,250)	15,124	13,750	1,374
Guardgate Roof	21,000	-	1,750	(1,750)	-	19,250	(19,250)
Cap Outlay-Roads	230,000	-	19,167	(19,167)	20,925	210,833	(189,908)
Total Capital Expenditures & Projects	303,000	-	25,250	(25,250)	41,049	277,750	(236,701)
<u>Lighting</u>							
Utilities-Electric	15,000	2,318	1,250	1,068	21,868	13,750	8,118
R&M-General	14,000	1,569	1,167	402	2,957	12,833	(9,876)
Misc-Holiday Lighting	3,000	1,838	-	1,838	3,588	3,000	588
Total Lighting	32,000	5,725	2,417	3,308	28,413	29,583	(1,170)
<u>Access Control</u>							
Contractual Services	84,000	6,822	7,000	(178)	76,235	77,000	(765)
Utilities-Electric	10,000	1,951	833	1,118	11,794	9,167	2,627
R&M-Gate	5,000	629	417	212	6,495	4,583	1,912
R&M-Gatehouse	8,000	2,874	667	2,207	10,211	7,333	2,878
Op Supplies - General	1,200	80	100	(20)	378	1,100	(722)
Capital Outlay	-	-	-	-	10,000	-	10,000
Total Access Control	108,200	12,356	9,017	3,339	115,113	99,183	15,930
<u>Maintenance: Landscape/Hardscape</u>							
Capital Outlay	-	-	-	-	46,300	-	46,300
Total Maintenance: Landscape/Hardscape	-	-	-	-	46,300	-	46,300

Statement of Revenues, Expenditures and Changes in Fund Balances
For the Period Ending August 31, 2018

<u>ACCOUNT DESCRIPTION</u>	<u>ANNUAL ADOPTED BUDGET</u>	<u>AUG-18 ACTUAL</u>	<u>AUG-18 BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE (\$) FAV(UNFAV)</u>
<u>Roadway Services</u>							
Repairs & Maintenance	10,000	-	833	(833)	4,812	9,167	(4,355)
Total Roadway Services	10,000	-	833	(833)	4,812	9,167	(4,355)
TOTAL EXPENDITURES	956,145	63,630	74,509	(10,879)	820,133	881,636	(61,503)
Excess (deficiency) of revenues Over (under) expenditures	(347,245)	(62,352)	(74,168)	(11,816)	(127,909)	(273,077)	(145,168)
<u>OTHER FINANCING SOURCES (USES)</u>							
Contribution to (Use of) Fund Balance	(347,245)	-	-	-	-	-	-
TOTAL FINANCING SOURCES (USES)	(347,245)	-	-	-	-	-	-
Net change in fund balance	\$ (347,245)	\$ (62,352)	\$ (74,168)	\$ (11,816)	\$ (127,909)	\$ (273,077)	\$ (145,168)
FUND BALANCE, BEGINNING (OCT 1, 2017)	810,323				810,323	810,323	
FUND BALANCE, ENDING	\$ 463,078				\$ 682,414	\$ 537,246	