



THE CITY OF KEY WEST  
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### **EXECUTIVE SUMMARY**

Date: April 5, 2022

To: City Commission

CC: Patti McLauchlin, City Manager  
Shawn D. Smith, City Attorney  
John Paul Castro, Utilities Director

From: Nathalia A. Mellies, Assistant City Attorney

Re: Supplemental Provision to the Interlocal Agreement between  
FKAA and the City of Key West for the Acceptance of Limited  
Wastewater Flow from the Big Coppitt Key Treatment Plant

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#### **BACKGROUND:**

On February 1, 2022, the City Commission approved Resolution 22-046, an Interlocal Agreement (ILA) between FKAA and the City of Key West (City) for the acceptance of limited wastewater flow from the Big Coppitt Key Treatment Plant. On February 15, 2022, Florida Keys Aqueduct Authority (FKAA) received correspondence from KW Resort Utilities relaying its concern with respect to the ILA.

In response, a supplemental provision to the current ILA that takes into account this potential issue has been drafted. This supplemental provision along with the initial ILA were approved by the FKAA Board on March 8, 2022.

The supplemental provision allows either party to terminate should KW Resort Utilities move forward with and prevail on its claim. Additionally, the language makes clear that any and all costs, litigation, etc. with respect to this matter is the responsibility of FKAA.

It is our understanding that since receipt of the letter, FKAA has met with representatives of KW Resort Utilities. Neither party to the current ILA believes the issue has merit, but the supplemental provision is included in the unlikely event it does.

**OPTIONS:**

1. The City Commission may approve the supplemental provision with FKAA. This would allow the City to amend the ILA to reflect that FKAA is solely responsible for any costs and/or litigation that may arise with respect to the February 15, 2022, Letter from KW Resort Utilities.
2. The City Commission could not approve the supplemental provision to the ILA or request additional/amended terms and conditions.

**RECOMMENDATION:**

The legal department recommends the City Commission select Option 1; approve the attached supplemental provision to the ILA with FKAA.