



THE CITY OF KEY WEST

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MEMORANDUM

EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager
E. David Fernandez, Asst. City Manager

FROM: Jay Gewin, Utilities Manager

DATE: December 12, 2011

SUBJECT: Approving Payment to the Florida Dept. of Emergency Management in the Amount of \$6,268,629.48 to Resolve Stafford Act Funds Owed from the Sewer and Solid Waste Fund from Hurricane Irene. Approving Budget Transfers as Needed to Facilitate Payment.

ACTION STATEMENT:

This resolution will authorize the City of Key West to pay \$6,268,629.48 in sewer and solid waste utility funds to the Florida Department of Emergency Management (FDEM) to resolve Stafford Act funds owed resulting from a de-obligation of the original grant.

Of this repayment, \$6,199,578.85 will be paid from the City's sewer fund. The remaining \$69,050.63 will be paid from the City's solid waste fund. The resolution will also allow for budget transfers as required to facilitate the payment to FDEM.

BACKGROUND:

Hurricane Irene hit Key West on October 15, 1999, dumping approximately 9 inches of rain on the island in a 24 hour period. Representatives of the Florida Department of Emergency Management met with City Staff and wrote project worksheets for funding repairs on January 28, 2000 after background information was provided by the City.

\$7,027,292 in FEMA funding was obligated to the City on February 9, 2000 following their review and a conference call with the Governor's Office. Based on these approvals, the City initiated construction projects to repair our sewer system in Sewer Districts F & G on July 7, 2000.

Key to the Caribbean – Average yearly temperature 77° F.

FEMA conducted an audit of the sewer project on September 5, 2003. After their review, the \$7,027,292 in funds was de-obligated January 26, 2004. This meant that the City would be required to repay the state and federal share of \$6,268,629.48. A primary reason for FEMA de-obligating the funds was their opinion that the sewer system was already damaged prior to the hurricane.

The City strongly objected to this de-obligation of FEMA funds, and filed appeals on January 30, 2004 and April 25, 2005. They were both denied.

The City enlisted the assistance of U.S. Representative Ileana Ros-Lehtinen, and also utilized our federal and state lobbyists. However, the position of FEMA and the Florida Dept. of Emergency Management remains unchanged. They are demanding payment of the full \$6,268,629.48.

PURPOSE & JUSTIFICATION:

City Staff firmly believes that we have exhausted all efforts trying to lobby the issue further, and it is now time for the City to resolve this debt in a prompt manner. Failure to pay this sum could result in the City being at risk for losing future funding from FEMA for recovery projects resulting from hurricanes or other disasters.

The City has performed extensive research to determine the best option to resolve the issue. Of primary concern is the desire to accomplish the following:

- Minimize impact on sewer rates
- Preserve sufficient fund balance in sewer reserves
- Preserve important projects within the sewer capital improvement plan.

City Staff has determined that a loan covering \$4,065,000 of this total, with the remaining balance coming from sewer fund reserves, is the best option to repay the sewer debt to FDEM. It allows us to capitalize on the current very low interest rates, and the annual amortization schedule is only slightly above what the City has budgeted based on our forecasts. This loan will accomplish all three of the aforementioned goals.

City Staff researched and rejected a myriad of options that failed to accomplish the aforementioned goals. These scenarios included a loan from another City utility or the general fund, a one-time payment which would decimate reserves, and a shorter-term loan which would negatively impact rates.

The funds owed from the solid waste fund will be transferred from reserves. The \$69,050.63 from solid waste will not have a significant impact on maintaining our reserves sufficiently.

Since we have exhausted all appeals with FEMA and FDEM, City Staff firmly believes it is time to now re-pay the \$6,268,629.48.

OPTIONS:

1. Approve the resolution that will allow the City to resolve the grant de-obligation issue with FEMA/FDEM. City Staff recommends this as the best option, as we have exhausted all of our allowable appeals, and we believe that further lobbying will not change the result. Bringing this issue to closure will also end possible litigation from the State relating to this debt, and would not put the City at risk of losing recovery funding from a future hurricane or other disaster.
2. The City Commission could to continue to challenge the debt issue with FEMA/FDEM. City Staff does not recommend this option. It does not appear that further appeals will change the outcome, and would result in the City incurring additional lobbying/legal fees relating to trying to appeal further, as well as additional staff time being spent on an issue we would be unlikely to win.

FINANCIAL IMPACT:

The impact of the \$6,199,578.85 share from the sewer fund depends on the means the City chooses to resolve the debt.

The annual payment for the \$4,065,000/10-year loan recommended by City Staff is only approximately \$25,000 below what we had budgeted, therefore approving the 10-year loan from BB&T will not have an impact on utility rates, the CIP, or reserves.

If a shorter-term loan, or a one-time payment from reserves are chosen by the City Commission, then there will be a negative impact on fund reserves, the capital improvement plan, and there will be a recommendation from City Staff for a rate increase for the next fiscal year due as a result.

The \$69,050.63 share of the debt owed from the solid waste fund will be transferred from reserve account 403-3401-534-98, and paid from budget account 403-3401-534-95.

This resolution will authorize necessary budget transfers depending on the type of funding plan for the FDEM payment the City Commission approves (loan, or other).

RECOMMENDATION:

Staff recommends option # 1, that the City Commission approves payment of the \$6,268,629.48 to resolve the sewer debt issue with FEMA/FDEM, and to authorize budget transfers to facilitate payment.