

MINUTES OF SPECIAL MEETING OF KISSIMMEE UTILITY AUTHORITY, HELD
WEDNESDAY, MARCH 10, 1993 AT 6:00 PM, BOARD ROOM, ADMINISTRATION
BUILDING, 1701 WEST CARROLL STREET, KISSIMMEE, FLORIDA

Present at the meeting were Chairman Hord, Vice-Chairman Gant, Secretary Bobroff, Assistant Secretary Lowenstein, Director Jones, Mayor Pollet, Attorney Brinson, President & General Manager Welsh, and Recording Secretary Rundio.

1. **MEETING CALLED TO ORDER** at 6:08 PM by Chairman Hord.
2. **BOND REFINANCING**

General Manager Welsh stated that, at the direction of the Board, the Financing Team has worked hard in preparation for getting us into the market if that is the desire of the Board. Right now we are very close to our 3% target. Staff will be suggesting two basic actions. One, the passing of a resolution to permit us to go into the market when the 3% target is reached and negotiate a bond deal when the market is ready. This would give us the flexibility to make a decision to negotiate and sell the bonds and later obtain the Board's final approval. Secondly, an Engagement Letter (akin to a Scope of Services) must be approved for Bond Counsel similar to what occurred in a previous issue. We are expecting to achieve some cash flow relief in 1994, a very tight cash flow year. The larger portion of the savings would then be spread out over the following four years and ease the requirement for rate relief during those years.

Joe Hostetler, Director of Finance, stated that at the previous Goals and Objectives meeting the Board approved that we move forward in the preparation of documents prior to going into the bond market. Working with the Bond Counsel, these documents are about 99% completed. A 3% present worth savings, approximately \$1.7 million, was targeted for 1994 and following years. A quote was also obtained from our insurance carrier for a bond issue of 27 basis points; we had 31 basis points for the 1991 issue. We do have some savings from this refunding issue that could not come at a better time. He felt we will be able to hold in costs by following the direction of the Fiscal Policy set up last year.

David Moore, Evensen Dodge & Company, Financial Advisor to KUA, made a presentation on where we're at and what we've done. A brochure entitled, "1993 Plan of Finance" (dated March 10, 1993) was distributed to the members. In light of the market, he said they wanted to structure this refunding to maximize our savings to help alleviate any crunches of future rate increases, and to enable us out during 1994. This would allow for major projects underway. Three specific components he mentioned being contemplated this year were: 1) refunding of the 1991 bonds; 2) \$55 million in projects associated primarily with Cane Island; and 3) looking to see if we want to cash defease the remaining 1985 bonds.

Bill Jahnes, Merrill Lynch, outlined what they hope to accomplish and the timeline in which to accomplish it. He stated they preferred to have the interest rate market stay over the 3% savings target, move forward with the permitting process at Cane Island, and allow them to do one issue to maximum the level of efficiency. The alternative option would occur if events pushed us over the 3% threshold; if the market dropped below the 3% they would have to make a judgment whether to proceed with a stand-alone refunding, followed by a second bond issue for Cane Island. Presently, they are ready to capture 3% savings if available.

Chairman Hord asked what the difference was in our funding if we used the alternative option versus the preferred option. Mr. Jahnes said, in terms of additional costs in executing the transaction our expenses would run between \$35,000 to \$50,000 on a stand-alone deal. Mr. Hostetler stated a stand-alone transaction is cleaner; they are separate issues, have separate debt service schedules, with separate cost allocations, etc.

Mr. Welsh stated we feel comfortable with the market being where its at and that we might need to decide whether to go for the whole issue. Chairman Hord asked, "Without the permits?" Mr. Welsh replied that the state of the permits would need to be reviewed and then the Board would need to make a decision.

Mr. Jahnes indicated that in the next few weeks our budgeting numbers would be more conclusive allowing the structuring to meet our specific needs for FY 94. The approval of a resolution will be required tonight allowing staff to act when we reach the 3% target. If our permitting process is achieved for Cane Island, they will hold off until both come together and their optimal goal is to do one financing. His presentation, via overheads, covered preferred and alternative options, a timeline, refunding analysis, capital project funding needs, new money bond issue, permitting update, and debt service savings. Discussion followed.

Dan Holtz and Tracey Anderson, Merrill Lynch, were also present. Mr. Holtz made a brief presentation on the economic numbers. They wanted to discuss the advance refunding of the 1991 issue and he highlighted the debt service savings from advance refunding of that issue. They recommended and sought the Board's guidance to restructure that savings to accomplish an additional goal of KUA to get cash flow relief in fiscal 1994, and over the ensuing four-year period as the Cane Island project comes on line.

In response to a question by Chairman Hord, Mr. Holtz explained the meaning of "All In True" as a calculation taking into account all the costs of issuance both on the underwriter's side and the Authority's actual costs. All Bond Counsel fees, Financial Advisor, and legal fees are on a time-and-material basis. The last issue was on a flat rate. The balance of the fees on the underwriting side would be per bond. Most of KUA's new money needs are associated with the Cane Island project. For the bond issue to capture the salient funding features of financing the \$55 million, they would structure a \$60 million bond issue, with the difference going into a debt service reserve fund which would flow back to the Authority upon final payment of the bonds. Mr. Holtz went into detail on various aspects of the refunding.

Mr. Holtz gave an update on the status of the permitting. The majority of the permits are or will be secured over the next month. (Regarding the Corps of Engineers wetlands application, they informed KUA a hearing will not be required and a permit is expected this month. The South Florida Water Management District water permit will be on their Board agenda in April and is recommended for its passage. The water use permit is completed and will be issued with the surface water permit. The air quality permit and joint wetlands permit are expected shortly. The waste water discharge permit is expected in mid-April.)

Discussions continued on the remaining items highlighted in the booklet.

Mr. Robert Freeman, Bond Counsel, Squire, Sanders & Dempsey, picked up on items discussed above. He also touched on the tax rules and said the Treasury has promulgated new regulations which are in effect and some proposed regulations. Essentially, the concept causing concern about refunding in cash defeasance, which was whether or not you have to treat them as two separate transactions rather than a single transaction, has been clarified as a 15-day requirement under regulations going into effect July 1st. Mr. Freeman and his associates feel comfortable with a 31-day separation on the two transactions based on those regulations and recommend this conservative position to the Board, given the state of the law at this point. There is no risk involved in these transactions being collapsed if being separated by 31 days. The consequences, in suggesting six months in an earlier example discussed, would be of collapsing a cash defeasance in a refunding causing our refunding bonds to be declared taxable. At this point we are looking at a safe 31-day harbor. He continued explaining all the angles. The regulations suggest an eight-day waiting period between a new money issue and a cash defeasance and Mr. Freeman recommends 16 days, on the conservative side for both parties.

Mr. Freeman responded to members' questions on accounting practices on these issues. He said we need to be sensitive to the new tax law.

Mr. Welsh stated that in refunding of new money issues, \$20 million of the cash refunding is where we bring in extra cash to pay for projects for which we originally planned on using our in-house cash; then the in-house cash is used to do a cash defeasance of old bonds and achieve an interest rate savings. For tax considerations we need to separate them when we issue the new money or issue the refunding money and when we do the cash defeasance by either 16 or 31 days. The debt is retired as opposed to retiring it.

Mr. Freeman said the resolution submitted at this meeting will authorize the President & General Manager to give Merrill Lynch permission to circulate a preliminary official statement and authorize him to say that official statement is complete except for interest rate and maturity. It would further empower the Financing Team to prepare the remaining documents necessary to complete the authorization for sale of the bonds. This would be in the context of the savings parameters discussed tonight. This resolution is not intended to be a final authorization for sale. They will return at a later time with an authorizing resolution which will consider the Merrill Lynch proposal to purchase the bonds. This final resolution would empower the President and General Manager to commence the process with Merrill Lynch to offer the bonds for sale in the general marketplace. When the Board and staff are ready, they would jump into the market at its optimum.

Attorney Edward Brinson had perused the resolution and recommended that R93-1 be approved.

Mr. Welsh said this resolution does, in reality, authorize us if the market is appropriate to go ahead in a sort of handshake deal, not legally binding, but that a final authorization must be approved for the bond deal. Discussion continued on professional services normally done on a time-and-materials basis.

At Director Bobroff's inquiry, Mr. Freeman said that the Chairman (rather than the President & General Manager) signed the original Agreement for Legal Services (between them and KUA, dated July 1, 1991) defining their relationship with KUA. The Engagement Letter is the implementing act under that overall agreement which was signed by the Chairman. He felt it routine for the President & General Manager to execute this authorization. Attorney Brinson concurred.

Mr. Freeman answered questions by Director Gant on the 16 or 31-day waiting period and the purpose of this. Its for when we use cash on hand to defease and to ensure that under the Treasury regulations that the cash defeasance and/or bond issue don't get collapsed and are treated as one transaction by the Internal Revenue Service. Further discussion continued.

Motion by Director Bobroff that we accept staff's recommendation and our Financing Team's recommendation and put in place Resolution No. 93-1 (Copy attached to the Minutes) pertaining to the issuance of bonds, as discussed, to be executed by the Chairman and Secretary. Seconded by Director Lowenstein.

Chairman Hord stated that, from his viewpoint, he is not so anxious to do this that he would not have every document as required by Cane Island signed, sealed and delivered before he would go out and borrow money against it. Right along we've been saying, he said, that until Cane Island was literally permitted out to the last permit that it wasn't a done deal. He stressed that to go out and do financing based on the fact we think we'll get everything is just not good business practice.

Mr. Welsh stated there may be a few stragglers we may or may not elect to go without, one of the things we'll have to analyze and assess the situation. We do need major permits, but concerning minor permits is a decision the Board will need to make.

Chairman Hord said he desired to put a seed in the minds of the Board, especially.

Motion carried 5 - 0

Moved by Director Bobroff that we execute the Engagement Letter, dated March, 1993, (Copy attached to the Minutes) with Squire, Sanders & Dempsey and upon Board approval have it executed by the Chairman of the Board. Seconded by Director Lowenstein.

Motion carried 5 - 0

3. **ADJOURNMENT**: Meeting adjourned at 7:15 p.m.



CHAIRMAN

ATTEST:



SECRETARY

RESOLUTION NO. 93-1

A RESOLUTION OF THE KISSIMMEE UTILITY AUTHORITY AUTHORIZING THE PRESIDENT AND GENERAL MANAGER OF THE AUTHORITY TO PROCEED TO DEVELOP NECESSARY DOCUMENTS, AND MAKE CERTAIN CERTIFICATIONS ON BEHALF OF THE AUTHORITY REGARDING THE PRELIMINARY OFFICIAL STATEMENT IN ORDER TO COMPLY WITH RULE 15c2-12 UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, IN CONNECTION WITH THE PROPOSED ELECTRIC SYSTEM IMPROVEMENT AND REFUNDING REVENUE BONDS; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE KISSIMMEE UTILITY AUTHORITY:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to Amended Ordinance No. 1285 of the City of Kissimmee, Florida (the "City"), enacted on February 19, 1985, and approved at a referendum held on March 26, 1985, and other applicable provisions of law, and Resolution No. 64-82 of the City, as amended and restated by Resolution No. 5-83 of the City, duly adopted on January 20, 1983, as amended, and other applicable provisions of law.

SECTION 2. FINDINGS. It is hereby ascertained, determined, and declared as follows:

A. The Kissimmee Utility Authority (the "Authority") has previously taken action to authorize its President and General Manager to proceed in the planning of an electric system refunding revenue bond issue to be designated "Kissimmee Utility Authority, Electric System Improvement and Refunding Revenue Bonds, Series 1993" or such other designation as may be approved by the Authority (the "Bonds") to refund certain outstanding obligations previously issued by the Authority and to finance the cost of extensions, additions and improvements to the electric system.

B. It is necessary and in the Authority's best interest to proceed to draft and develop the documents necessary to facilitate and effectuate the Refunding.

C. The Authority's Bond Counsel and Financial Advisor have undertaken responsibility for preparation of the Preliminary Official Statement to be used in connection with the offering and distribution of the Authority's Bonds and it is likely that distribution will occur prior to the Authority's next regularly scheduled meeting.

D. In order to enable the underwriters for the Bonds to comply with Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"), in connection with the offering and sale of the Bonds, it is necessary that the Preliminary Official Statement be "deemed final" (except for permitted omissions) by a representative of the Authority.

E. It is necessary and in the best interests of the Authority that its President and General Manager be authorized to certify the Preliminary Official Statement as "deemed final" under the Rule.

SECTION 3. 1993 OFFERING AND CLOSING DOCUMENTS. The President and General Manager in consultation with and upon the advice of the Authority Attorney, the Financial Advisor, Bond Counsel and other professionals involved in the issuance of the Bonds, is authorized to proceed to draft and develop, or cause to be drafted and developed, all documents necessary to facilitate and effectuate the issuance of the Bonds.

SECTION 4. PRELIMINARY OFFICIAL STATEMENT. Any Preliminary Official Statement distributed on behalf of the Authority by the underwriters for the Bonds to prospective purchasers for the Bonds shall be deemed final" (except for permitted omissions) in accordance with the Rule. The President and General Manager, upon the advice of the Authority's Bond Counsel and its Financial Advisor, is hereby authorized to certify or otherwise represent when such Preliminary Official Statement shall be "deemed final" by the Authority as of its date (except for permitted omissions), in accordance with such Rule.

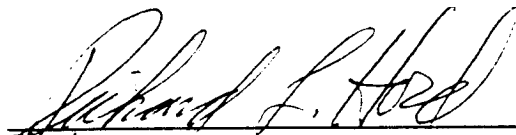
SECTION 5. INTENT OF RESOLUTION. This Resolution is intended to authorize the President and General Manager of the Authority to take such steps as he deems necessary in connection with the preparation and distribution of the Preliminary Official Statement relating to the Bonds; provided, however, this Resolution shall not be deemed in any way to obligate the Authority to issue, sell or deliver the Bonds.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

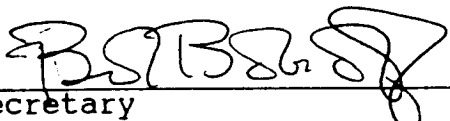
PASSED AND ADOPTED AT A SPECIAL MEETING DULY CALLED AND HELD THIS 10th DAY OF MARCH, 1993.

KISSIMMEE UTILITY AUTHORITY

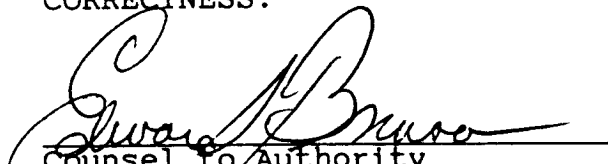
(SEAL)


Chairman

ATTEST:


Secretary

APPROVED AS TO FORM AND
CORRECTNESS:


Counsel to Authority

ENGAGEMENT LETTER

This Engagement Letter is provided to Squire, Sanders & Dempsey (SS&D) by the Kissimmee Utility Authority (KUA) pursuant to the Agreement for Legal Services between SS&D and KUA dated July 1, 1991.

SS&D's engagement will be for services generally in accordance with Attachment A, hereto.

SS&D's maximum, not-to-exceed fee for such legal services as outlined herein and in the attached, based upon (1) the preliminary understanding of the proposed scope of work as shown above on Attachment B hereto, (2) the review of fees charged by counsel for comparable undertakings, as shown on Attachment C hereto (where applicable), and (3) prior experience on issues of this type which did not present unanticipated problems, will be \$85,000.

DATED: March, 1993.

KISSIMMEE UTILITY AUTHORITY

By *Richard L. Hod*
Chairman

Approved and Accepted:
Squire, Sanders & Dempsey

By *[Signature]*
Partner

ATTACHMENT A

TO ENGAGEMENT LETTER

SCOPE OF ENGAGEMENT

The following is the scope of the engagement of Squire, Sanders & Dempsey as bond counsel by the Kissimmee Utility Authority ("KUA"), to provide legal services through the original issuance and delivery of Bonds as more particularly described in Attachment B to the Engagement Letter to which this Attachment A relates, including legal advice, solely relating to the legal documents and proceedings in connection with the security for and issuance of the Bonds and rendering an approving legal opinion with regard to legal matters incident to their issuance and with regard to the tax status of the interest thereon under applicable law existing on the date of that opinion:

1. SS&D, as Bond counsel, will prepare the initial, subsequent and final drafts of the various legal documents for the transcript essential to the authorization, authentication and issuance of the Bonds, with the precise nature of these documents to depend on the form of financing transaction. SS&D will draft for review and comment by appropriate parties, and then redraft: the KUA's authorizing resolution pursuant to which the Bonds will be issued and secured; and any other related agreements and transcript documents which may be essential to the terms of the financing.

2. If the Bonds are sold by a public underwriting, SS&D will undertake an investigation of the affairs of KUA and preparation of the text of the offering circular, placement memorandum or official statement (the "Disclosure Document").

3. SS&D will provide for inclusion in the transcript of proceedings for the issuance of such Bonds the following:

a. An opinion of KUA's legal counsel addressing the authorization for KUA's participation in the financing and other matters customarily included in such counsel's opinion in a borrowing;

b. In the case of the Bonds in any manner secured by some form of independent third party guarantee (such as bond insurance, a letter of credit or other credit enhancing technique)' evidence respecting the third party's authority to so act, often including an opinion from its legal counsel to that effect;

c. Certificates from principal officers of KUA dealing with financial condition, litigation, use of the Bond proceeds, regulatory approvals, authorization, and various factual matters supporting the tax status of the Bonds.

Although SS&D will draft or assist in the development of suggested forms for these and other customary transcript and closing documents, SS&D as bond counsel has and assumes no responsibility for verifying or confirming the truth of facts certified as true or supplied by others, or for examining legal questions on which other lawyers are asked to and do opine. On matters that are the subject of another lawyer's opinion SS&D will rely solely on that opinion, and on matters pertaining to the lien on or security interest in the revenues of KUA. SS&D will rely entirely on the evidence mentioned above, and SS&D's approving opinion will so state.

4. SS&D will render an approving legal opinion to legal matters incident to the issuance of the Bonds and with regard to the tax status of the interest thereon. This opinion is rendered in written form at, and speaks only as of, the time the Bonds are originally delivered pursuant to the Underwriter and covers (i) the legality of the Bonds and the proceedings by which they are issued and (ii) the extent of the exclusion of the interest to be paid on the Bonds from gross income for federal income tax purposes and the exemption of such interest from certain state taxes.

SS&D's specific tasks are expected to include the following:

(1) review of KUA'S outstanding bond documents and debt service schedules, maturity dates, redemption provisions and other details of outstanding bonds;

(2) review of KUA's current and projected funds available to finance the CIP;

(3) discussions with the Financial Advisor and Finance Director regarding the policy parameters within which the Bonds are to be issued (e.g., rate levels, maintenance of reserves, refunding of outstanding debt);

(4) discussions with the Financial Advisor and Finance Director regarding the impact of current and proposed federal income tax rules and regulations on the Bonds, including review of refunding calculations prepared by the Financial Advisor;

(5) advice as to the impact of current or proposed state or other federal laws upon the Bonds;

(6) attendance at meetings of the Board to adopt the authorizing and award resolutions for the Bonds;

(7) attendance at a working group meeting to review to the preliminary official statement;

(8) attendance at closing and delivery of the Bonds.

ATTACHMENT B
TO ENGAGEMENT LETTER
PARAMETERS OF BOND ISSUE

ISSUE SIZE: \$60,000,000, REFUNDING ONLY; \$80,000,000 COMBINED

PURPOSE OF ISSUE: (1) REFUNDING - PORTION OF SERIES 1991 BONDS;
(2) CONSTRUCTION OF KISSIMMEE UTILITIES AUTHORITY MANAGED
PROJECTS

SECURITY: NET REVENUES

CREDIT ENHANCEMENT: BOND INSURANCE POLICY

AUTHORIZING DOCUMENTS: SUPPLEMENTAL RESOLUTION

OTHER LEGAL DOCUMENTS: ESCROW DEPOSIT AGREEMENT; SLG
APPLICATION, IF NECESSARY; REGISTRAR AND PAYING AGENT AGREEMENT

MANNER OF SALE: NEGOTIATED

PROJECTED CLOSING DATE AND LOCATION: APRIL, 1993; KISSIMMEE

FINANCING TEAM PARTICIPANTS: FINANCIAL ADVISOR: EVENSEN-DODGE;
LEAD UNDERWRITER: MERRILL LYNCH; UNDERWRITER'S COUNSEL: MOORE,
WILLIAMS ET AL; VERIFICATION AGENT: TO BE DETERMINED; REGISTRAR,
PAYING AGENT AND ESCROW AGENT

PROJECTED STATE/LOCAL LAW CONSIDERATIONS: COMPLIANCE WITH PARITY
REQUIREMENTS

PROJECTED FEDERAL INCOME TAX CONSIDERATIONS: (1) APPLICABILITY
OF TRANSFERRED PROCEEDS RULES; (2) APPLICABILITY OF 2-YEAR
SPENDOWN REQUIREMENT FOR REBATE EXCEPTION; (3) APPLICABILITY OF
REIMBURSEMENT REGULATIONS; (4) REFUNDING ANALYSIS.

DISCLOSURE DOCUMENT RESPONSIBILITY: SS&D TO PREPARE TEXT; E-D TO
PREPARE TABLES.

OTHER: DEFEASANCE AND VERIFICATION REPORT

ATTACHMENT C
COMPARABLE FEES

<u>Amount of Issue</u>	<u>Issue</u>	<u>Bond Counsel Fee</u>
\$ 63,830,000	Florida Municipal Power Agency All Requirements Power Supply Project Revenue Bonds, Series 1992	89,400
74,520,000	Orlando Utility Commission Water and Electric Subordinate Revenue Bonds, Series 1992	62,942
75,700,000	City of Tallahassee, Florida Electric Revenue Bonds, Series 1992A	98,100