

AGREEMENT

THIS AGREEMENT, made and entered into this 22nd day of ~~October~~, 2015, by and between the CITY OF MELBOURNE, a municipal corporation existing under the laws of the State of Florida, hereinafter referred to as "City", and the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the County currently owns and operates certain sanitary sewer systems in the City of Melbourne Water System service area located throughout South Brevard County, Florida; and

WHEREAS, the City owns and operates a certain potable water supply system serving the Brevard County Sewer service area in the South Brevard County area; and

WHEREAS, the City has the capability and facilities to read water meters, and bill and collect deposits and service charges from the customers of the South Brevard County sanitary sewerage systems; and

WHEREAS, Section 5(k) and Section 10 of Chapter 67-1145, Special Acts of Florida, 1967, grant to the County the power to contract with any municipality providing water services to arrange for the collection of sanitary sewer charges and to enforce payment of delinquent service charges by shutting off and disconnecting such water service; and

WHEREAS, Section 110-38 (D) of the Brevard County Code grants to the County, and any municipality within the County, a right to discontinue sewer and water services for failure to pay service charges when due and the right to refuse to connect or reconnect such services until the delinquency is eliminated; and

WHEREAS, the County desires to enter into an agreement with the City to provide for the billing and collection of sanitary sewer service charges from its customers located in the City of Melbourne Water System service area; and

WHEREAS, execution of this Agreement will mutually benefit the parties and the residents of Brevard County, Florida.

NOW, THEREFORE, in consideration of the premises and the covenants herein contained, it is mutually agreed upon between the parties as follows:

1. The City hereby agrees to collect all deposits and service charges from customers of Brevard County sanitary sewer systems located in southern Brevard County, Florida and served by the City's water system. Said charges will include current as well as past due charges and will be collected on a monthly basis in accordance with policies and procedures attached hereto as Exhibit "A" and made a part

thereof by this reference. These policies may be amended from time to time by mutual written agreement of the parties. The City agrees to provide the County at least sixty (60) days notice prior to the date of implementation of any amendments. All charges for sanitary sewer service provided by the County shall be separately itemized and included on monthly water bills issued by the City to its customers. If said person is not on City water, a separate monthly billing shall be prepared by the City for said charges.

2. In consideration of the services to be provided and performed by the City, the County agrees to pay to the City an amount per account per month computed as follows:

For all accounts, the
billing, whether
based on a flat rate or
on consumption, is \$1.64 per account

The rate will increase annually on October 1, 2015 based on the Florida Public Service Commission annual inflationary index.

The City shall deduct the monthly billing charges set forth above directly from the City's monthly collections from the County's customers. The City shall forward the monthly collections to the County, less the City's billing charges, along with a statement setting forth the billing charges retained by the City no later than fifteen (15) working days after the close of each month.

3. The County shall furnish to the City a list of all customers to be billed by the City together with the applicable sanitary sewer service billing rate, all as more particularly set forth in the schedule of rates attached hereto as Exhibit "B" and incorporated herein by this reference. In no event will the City charge or assess any rate, fee, charge or penalty to any customer unless specifically set forth in Exhibits "A" or "B" attached hereto, or any amendments thereto. The County will provide the City written notice of any changes in said sanitary sewer service billing rates at least sixty (60) days prior to the effective date thereof.
4. The City shall collect and retain sanitary sewer service deposits from County customers in accordance with Exhibit "A".

In addition, on a monthly basis, the City shall provide to the County the following documents and information:

- a. Monthly billing register;
- b. Monthly summary of billings, adjustments and collections;
- c. Monthly copy of the City's control accounts;

- d. Water consumption information;
- e. Other additional information as mutually agreed upon by the County or its authorized representative and the City or its authorized representative.

In the event of partial payments of bills by customers utilizing both City water and County sanitary sewer service facilities, all amounts shall be applied first to the delinquent billings and then to current charges.

- 5. Normal billing adjustments to customer accounts shall be made by the City without prior County approval in accordance with the policies and procedures set forth in Exhibit "A".

Authorization for adjustments to customer accounts not involving normal billing adjustments, imposition of fees as set forth in Exhibit "A", or normal accounting adjustments in accordance with generally accepted accounting principles, shall be made by the City solely upon written notification from the County or its designated representative.

- 6. The City hereby agrees to disconnect or interrupt water service to property which is the subject of this agreement for nonpayment of County sanitary sewer services charges, and to refuse to connect or reconnect such services until said delinquency has been eliminated. The disconnection of water service for nonpayment of County sanitary sewer service charges shall be made by the City without prior County approval in accordance with City of Melbourne policies and procedures set forth in Exhibit "A".

In the event any suit or cause of action is brought seeking to enjoin the City from disconnecting or interrupting water service, or seeking to recover damages against the City as a result of the City's discontinuance or interruption of water services, where said interruption occurred to enforce nonpayment of County sanitary sewer service charges, the County agrees to indemnify and hold the City harmless, to the extent permitted by law, for any and all expenses incurred in defending such suit and for any and all damages that are assessed against the City in such suit by a court of competent jurisdiction.

In no event will the City be responsible for taking action other than discontinuance of water service in order to enforce payment of County sanitary sewer service charges.

- 7. The initial term of this Agreement shall be a three-year period beginning October 1, 2015. The rate will increase annually on October 1, as mutually agreed upon by the City and the County. This agreement may be terminated at the end of the initial or any renewal term upon 60 day written notice by either party. For the purpose of this section, notice shall be given to the County by mailing written notice to Brevard County Environmental, 2725 Judge Fran Jamieson Way, Building

A, Viera, Florida 32940, and notice shall be given to the City by mailing written notice to the City Manager, City of Melbourne, 900 E. Strawbridge Avenue, Melbourne, Florida 32901.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



BY



Robin Fisher, Chairman

As approved by Board on 10-6-15

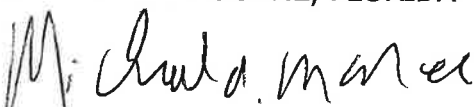
ATTEST:

Scott Ellis, Clerk

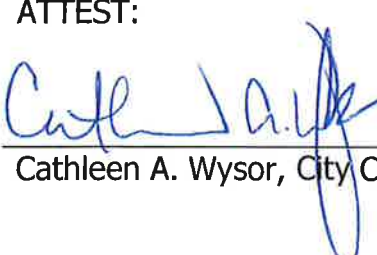
CITY OF MELBOURNE, FLORIDA

BY



Michael McNees, City Manager

ATTEST:



Cathleen A. Wysor, City Clerk

"EXHIBIT A"

CITY OF MELBOURNE POLICIES & PROCEDURES
(Excerpted from Chapter 58 of the Code of Ordinances)

Sec. 58-5. Joint billing of utility charges.

Water charges, sewer charges and reclaimed water charges shall be billed and collected together.

Sec. 58-6. Custody of deposits.

The city manager shall assign administrative responsibility for the collection and custody of utility security deposit moneys. All security deposits held for utility customers shall be maintained in a non-interest bearing account by the City of Melbourne.

Sec. 58-8. Refund of deposit.

Except as provided below, the deposits required by this chapter shall be applied pro rata against the final bill prepared for termination of the account. If the deposit exceeds the final bill, the balance of the deposit shall be refunded to the customer.

- (1) For individually metered residential customers, the deposit shall be refunded or applied as a credit to the customer account after twelve (12) consecutive months of service if such customer has not been delinquent in the payment of any bill for utility service or has not had checks or bank drafts returned due to insufficient funds. The city reserves the right to require the customer to re-establish a security deposit if the customer does not maintain good payment history.
- (2) For all other customers, the deposit shall be held by the city for the term of service for the account.

Section 58-9. When utility accounts become delinquent; penalty for delinquency.

All utility accounts shall be due upon receipt and shall become delinquent if not paid within twenty-five (25) days of the billing thereof. All utility accounts not paid within twenty-five (25) days shall pay a late payment charge of one and one-half (1½) per cent of the unpaid portion of the utility account, but not less than five dollars (\$5.00) and shall be subject to disconnection of utility service in accordance with applicable law. The fee will be applied by the city on a monthly basis to any outstanding balance that is considered delinquent by the city in excess of \$10.00.

Sec. 58-11. Disconnection due to non-payment; disconnection charge; payment of delinquent account; security deposit.

All past due balances associated with unpaid balances for utility service in excess of \$10.00 shall be paid by the customer within 10 days of notification in the subsequent month utility bill as being delinquent or past due. If payment is not received by the city from the utility account within 10 days of notification, the city will have the right to discontinue service without further notice. If service is discontinued, the city will not renew or resume service until all past due amounts and any security deposit as required by this chapter, are paid in full by the customer. A \$30.00 disconnection charge will be assessed to the utility account.

Sec. 58-12. Administrative adjustments to utility bills.

The city manager shall be authorized to provide adjustments to water and sewer utility bills as he deems appropriate after careful review of the circumstances which resulted in the unusually

high consumption on those occasions when the customer's situation does not meet the criteria for an adjustment pursuant to section 32-79 or section 32-308(d).

Sec. 58-129. Penalty for nonpayment of deposit.

Any consumer who fails to pay the required water security deposit shall be terminated as a customer and the supply of water to such customer immediately turned off.

Sec. 58-130. Prerequisite for commencement of water service.

No water shall be supplied or furnished to new or future consumers of utility service unless and until such consumers shall have first made a request to the city; provided an executed lease agreement or proof of ownership; and established the required security deposit.

Sec. 58-135. Free service; connection to comply with chapter.

(a) No free service or service not in accordance with the established rate schedule shall be furnished. In the event water service or related services are requested in a form which is not covered by this Code, the city manager or his designate shall negotiate or establish a service charge which will be in accordance with the city's covenants with bond holders.

(b) No person shall make or cause to be made a connection to the water system except as provided herein.

Sec. 58-137. Adjustments to bills.

The city manager shall be authorized to provide adjustments to water bills resulting from excessive consumption in special and unique situations not involving negligence and the accountholder is prevented from correcting the leak in a timely manner subject to the following conditions:

(1) Excessive water consumption is defined as water consumption where the billed consumption exceeds the average monthly consumption for the previous six (6) months by at least one hundred (100) per cent and is a minimum of ten thousand (10,000) gallons above said monthly average.

(2) The accountholder shall submit a written request for adjustment within sixty (60) days of the date of the bill for which the adjustment is requested.

Sec. 58-243. Sewer service rates.

(d) *Adjustments to bills.* The city manager or his designee shall be authorized to provide adjustments to sewer bills resulting from excessive water consumption because of leaks in the water service lines, defective plumbing fixtures or unusual circumstances where the water did not enter the sanitary sewer system as waste pursuant to the following conditions:

(1) Excessive water consumption is defined as water consumption resulting from one of the above described causes, where the billed consumption exceeds the average monthly consumption for the previous six (6) months by at least one hundred (100) per cent and is a minimum of ten thousand (10,000) gallons above said monthly average.

(2) The account holder shall submit a written request for adjustment within sixty (60) days of the date of the bill for which adjustment is requested.

(3) The account holder must establish that the water did not flow through the sanitary sewer system.

- (4) An adjustment to a sewer bill has not been granted in the previous twelve (12) months.
- (5) Adjustments shall be granted for the initial filling of a swimming pool and for subsequent filling of swimming pools as a result of repairs or maintenance.
- (6) In the event the excessive water consumption crosses two (2) billing cycles, the calculation for the adjustment shall be based upon the average monthly consumption which exceeds two (2) times the average monthly consumption for the previous six (6) months pursuant to the limitations described in section 32-308(d)(1) of the Code. An adjustment that is provided in this part shall only be authorized when the customer demonstrates that corrective action is taken within ten (10) days of the billing date when the excessive consumption first occurred.
- (e) *Annual notification.* There shall be an annual notification of the wastewater service rates to all customers with wastewater service accounts. This notification shall be printed on the utility bill.

Sec. 58-245. Public building rate.

All public buildings, post offices, schools, and churches in the city limits of the city shall be considered residential customers for sewer service and the applicable rates shall apply. Any public building outside the city limits shall be considered commercial customers and the commercial rates shall apply.

Sec. 58-247. Billing; collection; reconnection; free service; connection to comply with chapter.

(a) Bills for the monthly sewer service charge levied by this chapter shall be submitted and paid monthly along with and at the same time as the monthly water bill. If any monthly bill for sewage disposal service shall be unpaid after the water bill with which it was submitted is overdue, the water service to the premises and the sewer connection to the premises may be discontinued and disconnected and shall not be reconnected until all past due sewage disposal fees are fully paid.

(b) No free service or service not in accordance with the established rate schedule shall be furnished. In the event sewer service or related services are requested in a form which is not covered by this Code, the city manager or his designate shall negotiate or establish a service charge which will be in accordance with the city's covenants with bond holders.

(c) No person shall make, or cause to be made, a connection to the sewer system except as provided herein.