

**AGREEMENT BETWEEN CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT
AND THE TOWN OF MANGONIA PARK, FLORIDA, FOR PROVISION OF
WASTEWATER SERVICE**

THIS AGREEMENT is entered into between the City of Riviera Beach Utility Special District, a Special District existing under the laws of the State of Florida, hereinafter referred to as the "District", and the Town of Mangonia Park, Florida, a Florida municipal corporation existing under the laws of the State of Florida hereinafter referred to as the "Town".

WITNESSETH:

WHEREAS, Town desires to enter into an intergovernmental utility service agreement with District for District to provide wastewater transmission, treatment and disposal utility service for Town's wastewater utility system ("Wastewater Service") (referred to in this Agreement as "Utility Services"); and

WHEREAS, District desires to provide the Utility Services to Town.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, District and Town agree as follows:

1. The foregoing statements are true and correct.
2. The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

2.1 "Capital Improvement Charge": Except as otherwise provided by law, every property owner or developer whose property receives wastewater service from systems owned, supplied or serviced by the District shall pay to the District a wastewater capital improvement charge prior to the issuance of a building permit on ERU for wastewater service of \$1,116.00 per ERU, as amended from time to time by the District.

2.2 "Town Utility System": The Town's wastewater collection and forcemain facilities up to the point(s) of connection to the District Utility System.

2.3 "ERU": An equivalent residential unit which is a measure of wastewater capacity utilized by an average single family residence utilizing 7,340 U.S. gallons of water per month. The District will determine the number of ERU's for each user. Each single family residence shall be considered one (1) ERU.

2.4 "Guaranteed Revenue Fees": Guaranteed revenue fees represent the reimbursement to the District utility system for certain fixed costs of the system not used and useful to the on-line customers, which fees offset the cost of preserving unused system capacity for future customers until such customers begin paying monthly service fees. Prior to connection to the District utility system, guaranteed revenue fees shall be paid by every property owner or developer whose property receives wastewater service from the District for each ERU served. The wastewater guaranteed revenue fees per ERU is \$393.00, as amended from time to time by the District.

3. Agreement to Serve/Industrial Pre-treatment Program: Subject to obtaining all required approvals from applicable governmental authorities, District agrees to provide Utility Services to Town and to maintain adequate capacity to accomplish such provision to the Town, in accordance with the terms and provisions of this Agreement, the District Municipal Code, the District rate tariff and service policies, as amended from time to time, and rules, regulations and orders of any governmental authority having jurisdiction thereof. The District, on behalf of itself, East Central Regional Water Reclamation Facility Operation Board ("ECR Board") and the City of West Palm Beach ("WPB"), reserves the right to sample the wastewater delivered to the District by the Town and to otherwise monitor the Town's wastewater system to ensure compliance with WPB Ordinance No. 2938-96, as amended from time to time, the Industrial Pre-Treatment program adopted by the ECR Board and applicable to all wastewater delivered by the District to the ECR. Ordinance No. 2938-96, as amended from time to time, shall be applicable to the Town. In the event the Town discharges any toxic or hazardous waste, as defined by Florida Administrative Code Rule 62-730, as amended from time to time, or any other applicable Federal, State or local law, rule or regulation (collectively, "Environmental Laws"), the Town shall be subject to damages, fines, penalties and other costs as provided in, related in or arising out of the provisions, administration or enforcement of such Environmental laws.

4. Method of Extension and Delivery of Service: Interconnection facilities already exist connecting Town's Utility System to the District's Utility System. In the event that additional or replacement interconnection facilities are required during the term of this Agreement, the responsibility for construction and installation of interconnection facilities shall be that of Town, at Town's cost. The term "interconnection facilities" means and includes all wastewater collection mains, lines and pipes, pump stations, and related facilities, required to be constructed in order to connect to District's current terminus of its wastewater facilities to Town's Utility System, together with sewer metering devices as approved by District's engineer.

4.1 There is no current need for construction of replacement or additional interconnection facilities (collectively, "Future Interconnect"). In the event that construction of any Future Interconnect is deemed necessary by the District to continue to provide Utility Services to Town, the following conditions and provisions shall then govern:

4.1.1 Town shall agree to construct the Future Interconnect per the provisions of this Section 4.1 and to transfers to District title to the Future Interconnect installed by Town. Such conveyance shall take effect upon the acceptance of District, through its District Engineer, of the installation. As further evidence of said transfer of title and upon the completion of the installation and prior to the rendering of service by District, Town shall convey to District, by Bill of Sale provided by District, the complete interconnection facilities.

4.1.2 After receipt of notice from the District for the need for a Future Interconnect, Town shall cause plans and specifications to be prepared and sealed by a licensed Florida engineer, showing the subject Future Interconnect. The plans and specifications shall be submitted to District's engineer for written approval prior to commencement of construction. In addition, Town shall cause its engineer to submit to District's engineer specifications governing the material to be used and the method and manner of installation. A mylar complete "as-built" plan shall be submitted to District upon completion of construction, together with four (4) prints

signed and sealed by Town's engineer of record, or a registered land surveyor in the State of Florida.

4.1.3 During the construction of a Future Interconnect by Town, District shall have the right at reasonable times to inspect such installation to determine compliance with plans and specifications. District shall be entitled to require Town, its contractor or engineer, to perform standard tests for pressure, exfiltration, line and grade, and all other normal engineering tests to determine that the transmission main and facilities have been installed in accordance with the plans and specifications and good engineering practice.

4.1.4 Prior to connection of a Future Interconnect with District's utility system, and as a condition precedent to the rendering of any Utility Services through the Future Interconnect, District's engineer shall have inspected and accepted all utility construction work performed by Town as being in accordance with the plans and specifications and good engineering practices. Such approval shall not be unreasonably withheld. In connection with the inspection and approval, Town's contractor or engineer, upon prior adequate notice sufficient to allow District's engineer to witness same, shall perform all required regulatory tests under prescribed engineering methods, subject to and approved by District and the appropriate governmental authority.

4.1.5 District agrees that the acceptance of a Future Interconnect By District, as above provided, shall constitute the assumption of responsibility by District for the continuous operation and maintenance of such interconnection facilities from that date forward.

4.1.6 The Town shall install any Future Interconnect within easements or rights of way established as provided below, if not located within platted or dedicated roads or rights of way.

4.1.7. The District's determination of the need for any Future Interconnect shall not be made unreasonably, or without an engineering consultant's recommendation to support said determination. Further, the District shall give the Town a minimum of six (6) months notice of the need for a Future Interconnect in order to allow the Town time to prepare the necessary plans and specifications as required by Paragraph 4.1.2.

4.2 The Town will give and grant to District, at no cost to District, all necessary easement rights as required by District for the installation, maintenance and operation of any Future Interconnect on Town property. Any such future conveyance shall be deemed to be authorized by Town without further action by the execution of the Agreement. As further evidence of said granting of easements, and prior to the rendering of service by District, Town shall convey said easements to District by such easement grant document, in recordable form prescribed by District, and shall cover such rights-of-way and areas as shall be designated in order to best serve the property, including rights of ingress and egress. Such easement rights shall be for such period of time as District or its successors or assigns require in the construction, ownership and maintenance, operation or expansion of said interconnection facilities.

4.2.1 District on its part agrees that all easement grants will be utilized in accordance with established and generally accepted practices in the utility industry.

5. Rate for Wastewater Service: Town agrees to pay the following rate to District for wastewater utility service. The rate to be charged to Town for Wastewater Service shall be \$1.512 per thousand gallons ("Rate"). A 25% surcharge ("Surcharge") shall be added to the rate for a total gallonage charge of \$1.890 per thousand gallons ("Total Gallonage Charge"). The Rate shall remain in effect until September 30, 2006. Thereafter, the Rate shall be adjusted as provided in Sections 5.1, 5.2, and 5.3 below ("Adjusted Rate"). The Surcharge shall be added to the Adjusted Rate and an adjusted Total Gallonage Charge shall apply.

5.1 The Rate shall be automatically adjusted without further action of the Town and District based upon the following. In the event that the District adopts an across the board percentage rate adjustment applicable to all of the retail utility customers of the District, then the Rate shall be adjusted by the same percentage adopted by the District. For example, if the District adopted an across the board 5% rate increase for all retail customers, then the Rate would be increased by 5% ($\$1.512 \times 1.05 = \1.5876), and the Total Gallonage Charge adjusted accordingly ($\$1.5876 \times 1.25 = \1.9845). Prior to application of this automatic cost escalation provision, the District shall provide written notice to the Town detailing the amount of the escalation and the Adjusted Rate. The Adjusted Rate shall become effective as of the first billing cycle after the District's notice to the Town.

5.2 The District has adopted an automatic rate adjustment mechanism for its retail utility customers which is based upon the application of the Florida Public Service Commission utility price indices, as established from time to time by the Florida Public Service Commission pursuant to Florida Statute section 367.081(4)(a), as amended, to the then existing retail rates. In the event the District adjusts the retail customer rates by this automatic rate adjustment mechanism, the same adjustment shall be made automatically to the Rate. (See example in Section 5.1 above). Prior to application of this automatic cost escalation provision, the District shall provide written notice to the Town detailing the amount of the escalation and the Adjusted Rate. The Adjusted Rate shall be effective as of the first billing cycle after the District's notice to the Town.

5.3 The District has adopted an automatic rate adjustment mechanism for its retail utility customers which based upon the implementation of a rate increase to the District by any utility which provides utility service to the Board, or upon implementation or increase of any taxes or PILOT levied by a governmental authority against the District. In the event the District adjusts the retail customer rates by this automatic rate adjustment mechanism, the same adjustment shall be made automatically to the Rate. (See example in Section 5.1 above). Prior to application of this automatic cost escalation provision, the District shall provide written notice to the Town with a report detailing the amount of the escalation and the Adjusted Rate. The Adjusted Rate shall be effective as of the first billing cycle after the District's notice.

5.4 The District agrees that it will not raise Town's rates on or before September 30, 2006. Written notice contemplated in 5.1, 5.2 and 5.3 above shall be given to Town 30 days in advance of any rate increase.

6. Payments of Capital Improvement Charges and Guaranteed Revenue Fees: District recognizes that Town has no obligation for payment of Capital Improvement Charges and Guaranteed Revenue Fees for the ERU's currently connected to Town's Utility System

receiving wastewater service from the District (the "Base ERU's"). For each new ERU to be connected to the Town Utility System after the execution of this Agreement, the Town shall collect the District's then applicable Capital Improvement Charge and Guaranteed Revenue Fee and remit such Capital Improvement Charge and Guaranteed Revenue Fee to the District. Town shall collect such Capital Improvement Charge and Guaranteed Revenue Fee on or before the connection of the ERU to Town's Utility System. For example, if a developer within the Town seeks to connect four (4) ERU's to the Town system, then the Town would collect \$6036.00 ((4 x \$1116.00 = \$4464.00) + (4 x \$393.00 = \$1572.00)) from the developer and remit the same to the District. Town shall provide District a monthly accounting of each new ERU added to Town's Utility System. District shall have the right to audit the monthly accounting. In the event the audit reveals new ERU's not accounted for in the monthly accounting, Town shall promptly pay District the Capital Improvement Charges and Guaranteed Revenue Fees for such ERU's regardless of whether Town has collected them as required in this Section 6.

7. Billing: District shall bill Town each month for all Utility Services provided to Town under this Agreement, subject to the provisions of District's rate tariff and service policies, as amended from time to time.

8. Exclusive Right to Provide Utility Service: Town, as a further and essential consideration of this Agreement, agrees that Town, and the successors and assigns of Town and Town's Utility System, shall not obtain wastewater utility services from any other supplier of utility services during the period of time District, its successors and assigns, provide utility Services to Town, it being the intention of the parties hereto that under the foregoing provision and also other provisions of this Agreement, District shall have the sole and exclusive right and privilege to provide utility services to Town.

9. Force Majeure: In the event that performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, act of God or the public enemy, war, national emergency, allocation or other governmental restrictions upon the use or availability or labor or materials, rationing, civil insurrection, riot, radical or civil rights disorder or demonstration, strike embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe, failure or breakdown of pumping transmission or other facilities, governmental rules or acts or orders or restrictions or regulations of requirements, acts or action of any government or public or governmental authority or commission or board or agency or agent or official officer, the enactment of any statute or ordinance or resolution or regulation or rule or ruling or order, or decree or judgment or restraining order or injunction of any court, said party shall not be liable for such non-performance.

10. Notice: Upon further written notice by either party to the other all notices provided for herein shall be in writing and transmitted by messenger, certified mail, or return receipt requested, or telegram, and shall be mailed or delivered as follows:

As to District:

Dr. Edward E. Sierra
Utility Director
City of Riviera Beach Utility Special District
600 W. Blue Heron Boulevard
Riviera Beach, FL 33404

With a copy to:

Pamala H. Ryan
District Attorney
City of Riviera Beach
600 W. Blue Heron Boulevard
Riviera Beach, FL 33404

As to Town:

Peter LaMendola
Utilities Director
Town of Mangonia Park
1755 East Tiffany Drive
Mangonia Park, Florida 33407

and

Frank Spence
Town Manager
Town of Mangonia Park
1755 East Tiffany Drive
Mangonia Park, Florida 33407

With a copy to :

Trela J. White and Keith W. Davis
Town Attorneys
Corbett and White, P.A.
309 Lake Avenue
Lake Worth, Florida 33460

11. Laws of Florida: This Agreement shall be governed by the laws of the State of Florida and it shall become effective immediately upon execution by both parties hereto, subject to any approvals which must be obtained from governmental authority, if applicable, and subject to all conditions precedent for the rendering of service as set forth in this Agreement (including the obtaining of necessary easements).

12. Dispute Resolution: In the event either party to this Agreement is required to enforce this Agreement the following procedure shall be followed:

12.1 Prior to initiating any arbitration between the parties pursuant to Section 12.2 below, the initiating party shall provide a written notice to the non-initiating party of its intent to bring arbitration together with a reasonably detailed description of the nature of the claim. Within forty-five (45) days of receipt of such notice, representatives of the Town and the District shall schedule an informal dispute resolution meeting in an attempt to amicably resolve

any or all matters in dispute. The informal meeting shall take place at the offices of the initiating party. If the informal meeting does not resolve all matters in dispute, then the initiating party shall schedule a formal pre-arbitration mediation proceeding to attempt to mediate an amicable resolution of the dispute. The parties shall cooperate with each other to select a mutually agreeable mediator. The cost of mediation shall be borne equally by each party. Mediation shall take place at a neutral location agreed upon by the parties.

12.2 Any controversy or claim arising out of or relating to this Agreement, or any breach thereof, that is not resolved through the mediation process specified in subsection 12.1, shall be resolved by binding arbitration, before a three member panel, in accordance with the rules then obtaining of the American Arbitration Association. Each party shall select one arbitrator and the two arbitrators so selected shall select a third arbitrator. The arbitrators must have experience in the water and wastewater utility operations and management business. Arbitration shall take place at a neutral location agreed upon by the parties. Any judgment upon the award rendered may be entered in any court having jurisdiction. The cost of arbitration shall be borne equally by each party. Each party shall bear its own attorneys fees and costs arising out of any informal dispute resolution meeting, formal mediation and arbitration.

MISCELLANEOUS PROVISIONS

13. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine, feminine and neuter genders shall each include the others.

14. Exhibits mentioned in this Agreement are hereby incorporated herein by reference and made a part hereof as fully set forth herein.

15. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

16. No agreement shall be effective to add to, change, modify, waive or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the parties hereto.

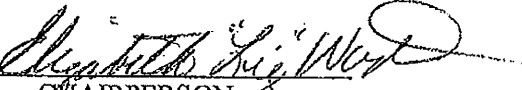
17. This Agreement shall have a term of fifteen (15) years. The Agreement shall be automatically renewed for an additional term of fifteen (15) years, unless either party provides notice to the other of its intention not to renew the Agreement within twelve (12) months prior to the expiration of the original term.

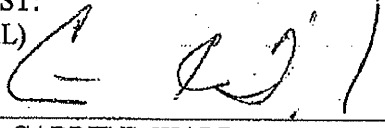
18. Whenever approvals of any nature are required by either party to this Agreement, it is agreed that same shall not be unreasonably withheld or delayed.

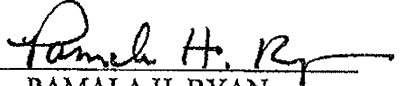
[Signatures on following page]

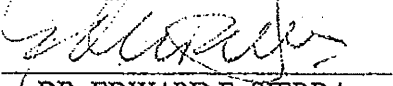
IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature:

THE CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT

By: 
CHAIRPERSON

ATTEST:
(SEAL) 
By: 10/19/05
CARRIE E. WARD
MASTER MUNICIPAL CLERK
DISTRICT CLERK

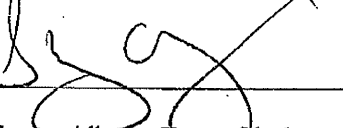
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
By: 
PAMALA H. RYAN
DISTRICT ATTORNEY

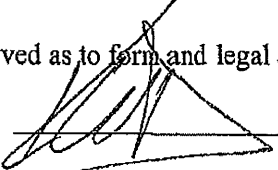
APPROVED AS TO TERMS AND
CONDITIONS
By: 
DR. EDWARD E. SIERRA
DISTRICT UTILITY DIRECTOR

DATE: 10/13/05

TOWN OF MANGONIA PARK, FLORIDA

By: 
WILLIAM ALBURY, MAYOR (SEAL)

AUTHENTICATION:
By: 
Sherry Albury, Town Clerk

Approved as to form and legal sufficiency
By: 
KEITH W. DAVIS
TOWN ATTORNEY

DATE: October 4, 2005

RESOLUTION NO. 27-05UD

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE DISTRICT CHAIRPERSON AND DISTRICT CLERK TO APPROVE AND EXECUTE THE AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT AND THE TOWN OF MANGONIA PARK FOR THE PROVISION OF WASTEWATER SERVICE AT A NEW RATE OF \$1.89 PER THOUSAND GALLONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach Utility Special District Board of Directors approve and execute the Wastewater Agreement between the City of Riviera Beach Utility Special District and the Town of Mangonia Park for the provision of wastewater service at a new rate to the Town of Mangonia Park; and

WHEREAS, the new rates will be \$1.512 per thousand gallons plus a 25% surcharge, for a total of \$1.89 per thousand gallons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF RIVIERA BEACH UTILITY DISTRICT, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: That the District Chairperson and City Clerk are hereby authorized to approve and execute the Agreement between the City of Riviera Beach Utility Special District and the Town of Mangonia Park.

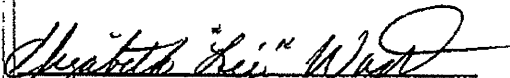
SECTION 2: That the District Board hereby accepts the Agreement between the City of Riviera Beach Utility Special District and the Town of Mangonia Park for provision of wastewater service to the Town of Mangonia Park at a new rate of \$1.89 per thousand gallons.

SECTION 3: That a copy of the Agreement between the City of Riviera Beach Utility Special District and the Town of Mangonia Park shall be attached hereto and made a part of this Resolution.

SECTION 4: This Resolution shall take effect upon its passage and approval by the District Board.


PASSED AND APPROVED this 19th day of October, 2005.


APPROVED:

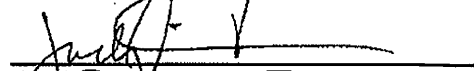

ELIZABETH "LIZ" WADE
CHAIRPERSON


ANN ILES
VICE-CHAIRPERSON

ATTEST:


CARRIE E. WARD,
MASTER MUNICIPAL CLERK
DISTRICT CLERK


VANESSA LEE
BOARD MEMBER


JUDY L. DAVIS
BOARD MEMBER


EDWARD RODGERS
BOARD MEMBER

MOTIONED BY: A. Iles

SECONDED BY: V. Lee

V. LEE: aye

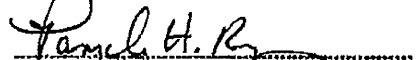
J. DAVIS: absent

E. WADE: aye

E. RODGERS: aye

A. ILES: aye

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, DISTRICT ATTORNEY

DATE: 10/2/05