



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBral, Deputy County Attorney
Susan J. Prado, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney
DATE: January 5, 2023
SUBJECT: City of Vero Beach Water, Wastewater and Reclaimed Water Franchise Agreement

BACKGROUND.

The City of Vero Beach has provided water and wastewater utility services to portions of the unincorporated areas of Indian River County, pursuant to franchises granted by Indian River County in Resolutions 87-13 (water) and 87-14 (wastewater), which both expired on March 4, 2017. Additionally, Indian River County and the City of Vero Beach entered into the "Agreement between Indian River County and the City of Vero Beach Setting Water Service Areas for Water and Sewer Service; Memorializing Certain Water and Sewer Allocations; and Repealing Prior Agreements," dated August 18, 1989. Indian River County staff and the City of Vero Beach staff have worked together to negotiate a new water, wastewater and reclaimed water franchise agreement to cover those areas currently served by the City of Vero Beach.

The proposed franchise agreement would be for 30 years and may be renewed for an additional 15 year period. Under the proposed franchise agreement the rates for water, wastewater, and reclaimed water utility services charged by City for the customers in the unincorporated areas of Indian River County shall not exceed the rates charged to customers within the same rate classes within the incorporated area of Vero Beach. In the proposed franchise agreement, the City will not add to the rates, fees, utility taxes, and charges for water or wastewater utility service within the unincorporated areas of Indian River County, any surcharges or taxes authorized pursuant to Chapters 163 and 180, Florida Statutes. The City will collect a 6 percent franchise fee and remit the fees collected to Indian River County on a monthly basis. As noted by City staff, customers will pay a "base facility charge" and a "consumption charge" for water and sewer service. Then, depending on location, there will be utility tax (inside City) or County franchise fee (in the Franchise Area, to be collected and remitted to County).

Under the proposed franchise agreement, the City will provide a level of service in the unincorporated areas that is not inferior to the level of service provided to those customers within the City of Vero Beach. By accepting the proposed franchise agreement, Indian River County is essentially acknowledging the validity of the 1989 Service Territorial Agreement with respect to the unincorporated areas of Indian River County. City staff has agreed that with the approval of the proposed franchise agreement, the abated Chapter 164 process, will be concluded.

FUNDING.

The City already remits a franchise fee for the customers served in the unincorporated areas of Indian River County. This totaled \$231,470 in FY 20/21 and \$255,569 in FY 21/22. The proposed franchise agreement would maintain the current franchise fee structure.

RECOMMENDATION.

The County Attorney's Office recommends that the Indian River County Board of County Commissioners approve the proposed franchise agreement and authorize the chair to execute the franchise agreement and any other documents necessary to effectuate the franchise agreement.

ATTACHMENT.

Proposed City of Vero Beach Water, Wastewater and Reclaimed Water Franchise Agreement