

MINUTES OF SPECIAL MEETING  
OF THE CITY COMMISSION  
MARCH 4, 1954

The Commission of the City of Coral Gables convened in special session at the City Hall at 4:00 o'clock P.M., Thursday, March 4, 1954. Mayor Hendrick in the Chair; Commissioners Hartnett, Neher, Phillips and Rogers present; Absent: None.

Mr. Russell Van Horn, President, Mr. H. E. Keating, Vice President and General Manager, and D. S. Colborn, Secretary, of Consumers Water Company, and Mr. C. T. McCreedy, Fiscal Agent, appeared before the Commission to discuss a proposed contract between the city and the Consumers Water Company wherein the company agrees to collect sanitary sewer use charges for and on behalf of the city, and to shut off water service upon such charges becoming delinquent as provided in such contract, for a period throughout the life of the Sanitary Sewer Revenue Bonds to be issued. It was pointed out that the City Manager, Director of Finance and City Attorney had gone over the contract in detail, and the execution of the contract was recommended.

The following resolution was presented and read:

RESOLUTION NO. 5370

A RESOLUTION AUTHORIZING EXECUTION OF A  
CONTRACT WITH CONSUMERS WATER COMPANY  
FOR COLLECTION OF SANITARY SEWER USE CHARGES.

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF  
CORAL GABLES, FLORIDA:

That the Mayor and City Clerk are hereby authorized to execute on behalf of the city the following contract with Consumers Water Company:

THIS SEWER SERVICE CHARGE COLLECTION AGREEMENT, entered into this 4th day of March, 1954, by and between the CITY OF CORAL GABLES, FLORIDA, a municipal corporation (CITY) and CONSUMERS WATER COMPANY, a Florida corporation (COMPANY).

WITNESSETH:

WHEREAS, under the provisions of the applicable laws of the State of Florida, the City is authorized to construct, maintain and operate a sanitary sewage system and disposal plant and to issue revenue bonds for the purpose of financing the cost thereof; and

WHEREAS, pursuant to such laws the City is proceeding to issue and sell such revenue bonds; and

WHEREAS, substantially all sewer users are also consumers of the water supply furnished by the Company and the Company already has the facilities, equipment, meters, administrative organization and personnel for the administration, billing and collection of charges for its water service; and

WHEREAS, under such laws the City is authorized to enter into an agreement with the Company for the administration, billing and collection of charges for sewer service; and

WHEREAS, it is most expedient and economical that the administration, billing and collection of such sewer service charges be accomplished, where possible, simultaneously with and as an added and separately designated item on the bill rendered the water consumer by the

Company for charges covering water service, which arrangement will be in interest of users of sewer service; and

WHEREAS, the City is desirous of having the Company administer, bill and collect such sewer service charges upon certain terms and conditions and the Company has agreed to so undertake such services for and on behalf of the City and as the agent of the City; and

WHEREAS, the City and the Company are in agreement that the Company's obligations under this agreement shall not extend in any manner to the construction, operation, repair, maintenance or extension of the City's sewer system and that the Company shall have no obligation or liability with respect thereto;

NOW, THEREFORE, in consideration of the mutual advantages to both parties to this agreement, it is agreed:

SECTION 1. The City, jointly with the Company, will designate and cause to be marked from time to time the individual meter reading record sheets of Company in order to indicate the initial or new meter water service accounts which thereafter, under the rules and regulations of the City, shall be billed for sewer service charges and the City shall designate the rate classification applicable thereto and the Company shall act thereon until such designation and classification is changed in similar manner by the City. In those cases where the sewer charge is to be billed to a person or persons other than the person or persons receiving water service at a particular location the City will designate to the Company in writing the name of the person or persons to be billed for said sewer service charges. Unless otherwise notified in writing by the City, the Company shall be entitled to consider the person or persons whose names appear on the Company's water service records as the persons responsible for sewer charges at the location involved.

SECTION 2. The City shall deliver to the Company the schedule or schedules of rates to be charged for sewer services and along with such delivery will furnish to Company a certified copy of the ordinance or other action of the City promulgating such schedule or schedules of rates. The City shall advise the Company in writing of any revision of such schedule or schedules of rates by furnishing to Company a certified copy of the ordinance or other action of the City promulgating revised schedule or schedules of rates. Until the Company is so furnished with revised schedule or schedules the Company shall act upon prior delivered schedule or schedules of rates. Any such delivered revised schedule or schedules of rates shall be effective at such time in the future as will enable Company to bill sewer service accounts in its normal and regular periodic procedure.

SECTION 3. The Company agrees to administer such accounts and, during the Company's regular and periodic billing procedure, to cause to be billed and collected from each water consumer under such account as an added and designated separate item on the water service bill the sewer service charges according to the schedule of sewer service rates established by the City for such consumer. All bills rendered by Company shall have imprinted thereon or otherwise indicated by way of "sticker" or otherwise, but consistent with and not in violation of postal regulations, a statement to the effect that the water charges and the sewer charges cannot be paid separately. The City authorizes and empowers the Company to render such billing for the City's account and on the payment thereof to give receipt and acquittance therefor, either by endorsement of payment upon such billings or by separate receipt therefor. Upon the initial billing to each user of sewer service by the Company the City shall (which word "shall" is used in its mandatory sense), at its sole cost and expense and independent of this agreement, advise such user of the method and arrangement between the City and the Company for the administration, billing and collection of sewer service charges by the Company for and on behalf of the City and as the City's agent and the City may at any time or times during the term of this agreement and at its sole cost and expense mail or otherwise disseminate to users of sewer service information about such method or arrangement or otherwise.

SECTION 4. The Company agrees to observe the same diligence, policy and procedure in the billing, administration and collection of sewer service accounts as is used by the Company in administering, billing and collecting its water service accounts, except that the Company shall not be obligated to institute or maintain suits at law

AJA967

for collection of sewer service accounts.

SECTION 5. The City agrees that such adjustments to billing for over or under registration of water meters, for underground leaks, for establishments of water use by consumers when water meters have been inoperative, for an obviously incorrect meter reading recorded, or other recognized and proper adjustments as are granted to water consumers by the Company, will be accepted by the City, and such adjustments for water use shall be applicable to obtain the indicated adjusted billing of sewer service charges. The City shall not question the discretion of the Company and its officials and employees in making such adjustments.

SECTION 6. The Company will keep correct and proper books of account, showing monthly gross billings of sewer service charges, and shall make to the City a monthly statement in writing, showing the net amount owing the City by the Company for the month covered by such statement ("net amount" being such monthly gross billings plus or minus the adjustments made pursuant to Paragraph 5) not later than twenty (20) days after the end of each monthly period and, based on such statement, shall make payment to the City of the amount due, less Company's compensation for billing, collecting and accounting for said sewer service charges, as hereinafter provided in this agreement and less any other payments which the City agrees to pay to Company under this agreement and less any other deductions which the Company is authorized to make from payments provided for under this agreement. The Company shall make available for inspection or audit by the City and its representatives at any reasonable time or times all its records pertaining to the Company's action under this agreement as agent for the City and shall also furnish to the City such information concerning the administration of this agreement as the City may reasonably request, including information as to delinquent sewer service charge accounts.

SECTION 7. The City agrees to pay to the Company as partial reimbursement for its costs of rendering service under this agreement, and in addition to all other payments or reimbursements provided for in this agreement, an amount of money equal to the total of all water service charges uncollected (including amounts due or to become due for water consumed but unbilled) by the company because of its discontinuance of water services to consumers who refuse to pay sewer service charges due and offer to pay the water service charges which are at the time due and payable. Such amount or amounts of money due Company by City under the provisions of this Section shall be reduced by the amount of any guarantee deposit of such a consumer and held by the Company, provided, however, this clause shall not apply in the event the Company cannot legally apply such a deposit under the circumstances stated in this Section. The Company shall continue to use its best efforts to collect all of the outstanding and uncollected water service charges (including amounts due or to become due for water consumed but unbilled) and when any of such charges or amounts are collected by the Company the same, to the extent that they have been paid to the Company by the City, shall be included in the next monthly remittance to the city.

SECTION 8. The City and the Company agree that the sewer service charges shall be due and payable at the same time water service charges are due and payable. The Company agrees to require the user of water service to pay the sewer service charge at the same time the water service charge is paid, and not to accept the current water service charge without the payment of the sewer service charge. The company agrees to discontinue water service to those users of sewer service whose service accounts remain unpaid thirty (30) days after the due date and upon Company's receipt from the City of five (5) day delinquency notice provided for in the Act known as "The City of Coral Gables Sewer Financing Act"; as amended, and the Company further agrees not to re-establish water service through the turning on of such water service (except upon the written directions of the City) until such time as all such sewer service charges have been paid. Nothing in this agreement shall interfere with, inhibit or delay the Company from discontinuing its service to any water consumer at any time in order that the Company may enforce the Company's own rules and regulations relative to water service payment of water service accounts or otherwise, including but not limited to discontinuance of service because of the violation of any of Company's rules and regulations.

SECTION 9. On or before January 20 of each year during the term of this agreement the company shall furnish the City a written list of all delinquent and inactive sewer service charges in the twelve month period ending the previous October 31 rendered by the Company for the account of the City and unpaid on said October 31 and the Company shall deduct the

amount therefrom from the amount to be remitted by the Company to the City on account of sewer service charges rendered for the previous month. The Company shall continue to use its best efforts to collect all of the outstanding sewer service charges shown on said list and when any of said delinquent charges are collected the Company shall include the amount thereof in the next monthly remittance to the City.

SECTION 10. The Company shall not be obligated to discontinue and the City shall not request the Company to discontinue either water service or sewer service in order to assist any owner of a premise or premises to dispossess or attempt to dispossess any tenant or other occupant of the premise or premises and Company shall treat as its water consumer and as the City's Sewer Service consumer the person, firm or corporation whose name appears upon the water service records and sewer service accounts of the Company.

SECTION 11. Both the City and the Company recognize that in the administration of the billing and collection of both water service charges and sewer service charges involving thousands of customers numerous situations arise which require discretion in handling, such as (a) where water and sewer charges are billed to a tenant and the tenant moves out and water service is not discontinued; (b) water and sewer service charges are billed to a tenant and the tenant moves out and water service is discontinued; (c) water and sewer charges are billed to separate consumers after the City has notified the Company to make separate billings and sewer charges become delinquent; (d) water and sewer charges are billed to separate persons after the City has notified the Company to make separate billings and the tenant moves out and water service is not discontinued; (e) water and sewer charges are billed separately after the City has notified the Company to make separate billings and the tenant moves out and water service is discontinued; (f) where even though a property owner has neither water service nor sewer service connections the City desires to bill such owner for installed sewer facilities on some equitable or proportionate basis; and (g) other situations not within the present contemplation of the City and the Company but which may arise from time to time and become actualities. City agrees with Company that Company may handle any or all of the situation described above or any other unusual situation involving the handling, billing or collection of sewer service charges or accounts in Company's discretion and without Company's method or manner being considered as negligence under or independent of the terms and conditions of this agreement and without Company being liable or responsible to City for any loss in sewer charge revenue which the City may not receive the benefit of by reason of the Company's such discretionary handling of such unusual situation and for or covering which no agreement should attempt to prescribe a uniform or standard method of handling or operation.

SECTION 12. The City agrees to pay to the company and the company shall receive from the City compensation determined as follows:

(A) Reimbursement monthly to the Company by way of deduction as authorized by this agreement of all of Company's out-of-pocket costs incidental to the Company's establishment of the original records necessary for the Company to bill sewer charges or accounts for and on behalf of the City and as the agent of the City, including but not limited to (1) payroll costs; (2) allowance for social security and unemployment taxes on payroll cost; (3) equipment purchased for the exclusive use of maintaining records necessary for billing sewer charges or account; (4) Cost of all changes in Company's present billing equipment to make feasible Company's billing for sewer charges or accounts; PLUS

(B) Payment in the amount of nine cents (9¢) per bill rendered by the Company and including therein sewer charges or accounts and such payments being payable monthly to the Company by the City by way of deduction as authorized by this agreement and such payments to continue until changed from time to time as hereinafter provided; PLUS

(C) Reimbursement monthly to the Company by way of deduction as authorized by this agreement of all costs and expenses incurred and paid by the Company during the preceding month in defending legal actions brought against the Company by any person, firm or corporation, excluding city, involving billing or collection of sewer service charges or accounts or involving the Company's administration of the terms and conditions of this agreement; PLUS

(D) The amount or amounts of money provided for in Section 7 of this agreement and such amount or amounts of money being payable monthly

to the Company by the City by way of deduction as authorized by this agreement.

SECTION 13. To the end that the charges provided for in Section 12(B) shall be fair, reasonable and compensatory, either the City or the Company may request in writing on February 1, 1960, and on each five (5) year anniversary of such date thereafter (but not prior to February 1, 1960, and not more often than at such five (5) year intervals thereafter) by notifying the other at least thirty (30) days prior to February 1, 1960, or the applicable five (5) year anniversary date thereafter a review and adjustment of the charge provided for in Section 12(B). In the event the City and the Company are unable to agree upon an adjustment of the charge provided for in Section 12(B) or Section 12(B), as then amended, within thirty (30) days after the delivery of such written request by the requesting party, then the question of adjustment shall be considered and determined by the Board of Arbitration provided for in Section 14 hereof. In considering and determining any such requested adjustment the City and the Company and also such Board of Arbitration shall abide by and follow the factors and method of determination in the February 3, 1954 "Memorandum of Cost Determination made to arrive at an Equitable Basis of Compensation for services to be rendered to the City of Coral Gables in the billing and collection of sewer charges" signed by both the City and the Company and recorded in the City's Minute Book immediately following the recording of this agreement therein or the resolution authorizing this agreement and incorporating this agreement therein. Any such adjustment agreed to by the City and the Company or determined by the Board of Arbitration shall be reflected by an agreement amendatory or supplemental to this agreement and shall be effective as of the date the City and the Company so agree or the date on which the Board of Arbitration makes its determination; however, the City and the Company may agree upon a different date so as to eliminate any inconvenience in computing the adjusted charge.

SECTION 14. In the event the City and the Company are in disagreement about any requested adjustment provided for in Section 13 then the disagreement shall be considered and determined by a Board of Arbitration consisting of three (3) members and to be constituted within thirty (30) days after the City and the Company state in joint or several writings that they are in such disagreement. One member of the Board shall be appointed by the City within five (5) days after such writing or writings of disagreement; one member of the Board shall be appointed by the Company within five (5) days after such writing or writings of disagreement; and the third member of the Board shall be appointed by the two City and Company representatives within ten (10) days after such five (5) days. In the event the third member is not so appointed by the two members then within five (5) days after such ten (10) days the City and the Company shall appoint the third member of the Board. Utility, accounting or other professional qualifications need not be possessed by the two City and Company appointed arbitrators, however, the third member of the Board shall be a Certified Public Accountant licensed to practice his profession in the State of Florida and with ten (10) years of actual practice in the State of Florida under such a Florida license. In the event either the City or the Company fails to observe any of the requirements incumbent upon them to perform in this Section 14, then the party in default or the delinquent City or Company, as the case may be shall be deemed to have withdrawn its disagreement and the provisions of this Section 14 shall not be applicable to such disagreement. The Board of Arbitration's findings shall be made within thirty (30) days after the three-man Board is so constituted and they shall be final, conclusive and binding upon both City and the Company and shall be given immediate effect by the City or the Company. The Board of Arbitration and its members or any of them shall only deal with requested adjustments arising under Section 13 of this agreement and shall not have any power to revise, modify or otherwise amend or rewrite any of the provisions of Section 13 or read into such provisions words which do not appear therein. The expense of each arbitration shall be borne equally by the City and the Company.

SECTION 15. The City agrees to indemnify and hold harmless the Company from any and all damages and liability for everything and anything not arising from negligence of the Company by reason of the discontinuing by the Company of water service or sewer service to any person, firm, corporation or premises for reason of delinquency in the payment of sewer charges or because of the administration, execution or handling by the Company of any term and condition of this agreement.

and which the Company is carrying out for and on behalf of the City and as the agent of the City and not as an independent contractor.

SECTION 16. At the written request of the City at any time during the term of this agreement the Company shall provide and maintain in full force and effect a surety or indemnity bond and in such amount as may be designated by the City to insure performance by the Company of the provisions of this agreement in connection with the accounting for and paying over to the City all monies collected by the Company as agent for the City as provided in this agreement, provided, however, that the City shall always pay at its cost and expense the initial premium and all renewal premiums due and owing from time to time on said bond and the Company shall not pay or be responsible for such premium or premiums.

SECTION 17. The term of this agreement shall extend from the date of this agreement until and including February 1, 1990, or until the date on which all of the Sewer Revenue Bonds issued by the City from time to time in connection with the cost of constructing the City's sewer system and disposal plant are paid and discharged, whichever date may be earlier in point of time. If, on February 1, 1990, all of such Sewer Revenue Bonds are not so paid and discharged then the term of this agreement shall be extended without further writings between the city and the company until the date subsequent to February 1, 1990, on which such Sewer Revenue Bonds are so paid and discharged. Notwithstanding the above provisions this agreement shall terminate and be cancelled without further writings between the city and the company on the date when either (a) the city's sewer system is sold, conveyed or consolidated with any other sewer system operated in Dade County, Florida, by any municipality, county, private corporation, governmental agency and any department or division (other than the city's successor municipal corporation) thereof; or (b) the city or any other municipality, county or other governmental agency or any department or division thereof, involuntarily acquire the Coral Gables water system of company or its successor; or (c) the City giving at least three (3) months' notice in writing to Company advising Company of its desire to cancel and terminate this agreement at the expiration of the three (3) months named in such notice.

SECTION 18. Notwithstanding any provisions in this agreement, the company shall have no responsibility whatsoever in the construction, operation, repair, maintenance or extension of the city's sewer system and disposal plant, it being understood and agreed between the city and the company that the company's obligation is limited to administration, billing and collection of sewer charges as specifically provided in this agreement.

SECTION 19. This agreement shall be binding upon the respective successors and assigns of both the city and the company.

SECTION 20. Whenever written notice to the city is required it shall be sent by registered mail, return receipt requested, to the City of Coral Gables, City Hall, Coral Gables, Florida (Attention: City Clerk). Whenever written notice to the company is required it shall be sent by Registered Mail, return receipt requested, to Consumers Water Company, 1826 Ponce de Leon Boulevard, Coral Gables, Florida, or in similar manner to the then address of the principal office of the company as may be disclosed by advice from the Secretary of State, State of Florida, Tallahassee, Florida.

IN WITNESS WHEREOF, the City has executed this agreement by its officers duly authorized and has caused its seal to be affixed and the Company has executed this agreement by its officers duly authorized and has caused its seal to be affixed, all as of the day and year first above written.

MEMORANDUM DESCRIBED IN SECTION 13  
OF SEWER SERVICE CHARGE COLLECTION  
AGREEMENT

Coral Gables, Florida  
February 3, 1954

Memorandum of Cost determination made to arrive at an Equitable Basis of Compensation for services to be rendered to the City of Coral Gables in the Billing and Collection of Sewer Charges.

Customer Accounts Costs of Consumers Water Company for the calendar year 1953, exclusive of meter reading and uncollectable accounts, but inclusive of depreciation of billing equipment and prorata share of welfare 3-4-54

AJA967

and insurance costs have been determined at \$35,834.32 per the attached statement.

Since each bill rendered in Coral Gables will, when the sewer charges become effective, contain three items, viz, water charge, municipal tax and sewer charge, and each of these items requires separate accounting treatment, a weighing factor of one (1) has been applied to each item appearing on each bill to be rendered.

In the year 1953 the company rendered approximately 165,000 bills, of which approximately 99,000 contained a utility tax. We are informed that the city contemplates 2,400 separate monthly sewer charges or approximately 29,000 annually.

Applying a weighting factor of one to each item to be billed, we arrive at the aggregate units to be billed of 293,000 as follows:

165,000 Water Items
99,000 Utility Tax
<u>29,000 Sewer Items</u>
293,000 Total units

Dividing the aggregate cost of \$35,834.32 in the year 1953, by the aggregate units to be billed of 293,000, we arrive at a unit cost of approximately 12¢ per unit.

Recognizing (1) that the expansion of the company's territory should logically result in a greater number of customers served, many of whom will be located in County area and that many of the company's costs will not immediately increase proportionate with the increase in customers, and

(2) that no real determination of company's costs can be made until after a fair trial period from the date the sewer charges become effective, and

(3) that weighting factor above may not accurately reflect a true allocation of cost.

Company and city representatives have agreed that for a trial period to February 1, 1960 an amount of 9¢ per bill would represent a reasonable compensation for the services to be performed by company.

Acknowledged  
on behalf of Consumers Water Company

s/ R. VAN HORN  
R. Van Horn, President

on behalf of City of Coral Gables

s/ E. B. POORMAN

3/4/54  
BWH  
ERP

#### Breakdown of Customer Accounting Expense

Year ended December 31, 1953

<u>Acct. No.</u>	<u>Description</u>	<u>Total</u>
780	<u>Supervision</u> Payroll	\$2,327.37      \$ 2,327.37
781.1	<u>Customers Contracts &amp; Orders</u> Payroll	4,590.67      4,590.67
781.2	<u>Credit Investigations &amp; Records</u>	-

3/4/54

AJA967

<u>Account No.</u>	<u>Description</u>		<u>Total</u>
781.3	<u>Meter Reading</u>		
	Payroll	\$ 8,927.89	
	Vehicle	<u>578.30</u>	9,506.19
781.4	<u>Collecting</u>		
	Payroll	2,000.00	
	Vehicle	<u>300.00</u>	2,300.00
782	<u>Customers Billing &amp; Accounting</u>		
	Payroll	6,951.12	
	Postage	3,653.88	
	Billing	11,296.43	
	Statis. & Misc.	974.35	
	Utilities	<u>750.00</u>	23,625.78
783	<u>Miscellaneous Expenses</u>		-
784	<u>Uncollectible Accounts</u>		
	Miscellaneous	600.00	600.00
785	<u>Rents</u>		
	Miscellaneous	996.00	<u>996.00</u>
	Total Cust. Accounting before Dep. & Welfare		43,946.01
	Additions in above: Collector		2,000.00
	Rent		<u>996.00</u>
	Actual per books		\$ 40,950.01
	Total Cust. Acct. per above		43,946.01
	Less: Meter Reading	9,506.19	
	Uncollectable Accts.	<u>600.00</u>	10,106.19
	Add: Depreciation	483.91	
	Welfare & Insurance	<u>1,510.59</u>	1,994.50
	Total Customers Accounting Costs per formula		35,834.92

Motion for its adoption was made by Commissioner Rogers, seconded by Commissioner Hartnett. Resolution was adopted by the following roll call:

"Yeas" - Commissioners Hartnett, Neher, Phillips and Rogers; Mayor Hendrick.

"Nays" - None.

The Commission then discussed with Mr. Van Horn the matter of a new franchise for Consumers Water Company. Mr. Van Horn pointed out that it was desirable that a franchise agreement be reached prior to the expiration of the contract of the company with the Miami Department of Water and Sewers for the furnishing of water. The Commissioners asked that a copy of the recent Florida Power and Light Co. franchise and a memorandum of the Consumers Water Company franchise and all proceedings previously taken in respect thereto be forwarded to the Commissioners for further review with the idea of meeting with company officials in the near future concerning a new franchise.

3/4/54