

RESOLUTION NO. R-13-135

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RELATING TO PAYMENTS IN LIEU OF FRANCHISE FEES BY THE MANATEE COUNTY PUBLIC UTILITIES SYSTEM; INCORPORATING RECITALS; PROVIDING AUTHORITY; REQUIRING THE MANATEE COUNTY PUBLIC UTILITIES SYSTEM TO PAY TO THE MANATEE COUNTY GENERAL FUND AS PAYMENTS IN LIEU OF FRANCHISE FEES AN AMOUNT EQUAL TO 5.9 PERCENT OF THE REVENUES COLLECTED BY THE WATER AND SEWER SYSTEM OPERATING FUND BEGINNING OCTOBER 1, 2013; REQUIRING PAYMENTS IN LIEU OF FRANCHISE FEES EACH MONTH OR AT OTHER PERIODIC INTERVALS UNTIL AMENDMENT, REPEAL OR RESCISSION OF THIS RESOLUTION; SPECIFYING FUNDS FOR PAYMENTS IN LIEU OF FRANCHISE FEES; PROVIDING ADDITIONAL AUTHORIZATION TO IMPLEMENT AND CARRY OUT THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING EFFECTIVE DATES.

WHEREAS, Chapter 63-1598, Laws of Florida, "The Manatee County Utility Bond Act", grants Manatee County the power to construct, acquire, improve, maintain and operate a Utility System, consisting of a water system and/or a sewer system, within the boundaries of Manatee County and the territory of any adjacent county; and

WHEREAS, Chapter 63-1598, Laws of Florida, authorizes Manatee County to use any right of way, easement, lands under water, or other similar property rights held by the state or any political subdivision of the state in connection with the construction, acquisition, improvement, operation or maintenance of the Utility System; and

WHEREAS, on January 15, 1991, the Board of County Commissioners of Manatee County enacted Ordinance No. 91-27, codified as Article IV of Chapter 2-31 of the Manatee County Code of Ordinances, which consolidated the County's water and sewer system, solid waste system, and stormwater management system into one combined public utility referred to as the Manatee County public utilities system; and

WHEREAS, Section 2-31-103 of the Manatee County Code of Ordinances grants Manatee County the power to construct, acquire, improve, maintain and operate the public utilities system

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within the boundaries of Manatee County and the territory of any adjacent county; and

WHEREAS, Section 2-31-103 of the Manatee County Code of Ordinances authorizes Manatee County to acquire and use any right-of-way, easement, lands under water, or other similar property rights in connection with the acquisition or construction of additions, extensions and improvements or the operation or maintenance of the public utilities system; and

WHEREAS, Section 2-31-103 of the Manatee County Code of Ordinances authorizes Manatee County to require the public utilities system to make payments to the County's general fund in lieu of taxes and/or franchise fees which a privately owned utility would be required to pay; and

WHEREAS, on January 15, 1991, the Board of County Commissioners of Manatee County adopted Resolution No. R-91-21, as amended and supplemented to date (hereinafter referred to as the "Resolution"); and

WHEREAS, the Resolution defines the term "Operating Expenses" of the public utilities system to include payments-in-lieu-of-taxes and/or franchise fees; and

WHEREAS, Manatee County has constructed, acquired and improved and owns, maintains and operates a public utilities system pursuant to Section 125.01, Florida Statutes, Chapter 63-1598, Laws of Florida, as amended, Chapter 2-31, Article IV, Manatee County Code of Ordinances, as amended, and other applicable provisions of law, together with the Resolution and other applicable resolutions adopted by the Board of County Commissioners of Manatee County; and

WHEREAS, the Manatee County public utilities system uses and occupies rights of way, easements, lands under water, and other similar property rights throughout the County in connection with the acquisition or construction of additions, extensions and improvements or the operation or maintenance of such public utilities system; and

WHEREAS, Manatee County has made substantial investments and expenditures in the acquisition, construction, improvement, operation and maintenance of such public utilities system; and

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WHEREAS, the public utilities system constitutes a significant asset of Manatee County; and

WHEREAS, as used in this resolution, the Manatee County public utilities system refers to the water and sewer system; and

WHEREAS, a privately owned utility providing water and sewer services would be required to obtain franchises and pay franchise fees to Manatee County for the acquisition, construction, improvement, operation and maintenance of such system; and

WHEREAS, the payments required by this resolution represent a return on the investment of Manatee County in the public utilities system and approximate the value of a franchise fee that would be paid to Manatee County by a privately owned utility.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. The recitals set forth above are true and correct and are hereby incorporated into this resolution as though specifically stated herein. Any capitalized term used in this resolution and not otherwise defined shall have the meaning ascribed to such term in the Resolution.

Section 2. This resolution is adopted pursuant to Chapter 63-1598, Laws of Florida, as amended, Chapter 2-31, Article IV, Manatee County Code of Ordinances, as amended, and the Resolution.

Section 3. Beginning October 1, 2013, the Manatee County public utilities system shall pay to the Manatee County general fund as payments in lieu of franchise fees an amount equal to 5.9 percent of the revenues collected by the water and sewer system operating fund during each fiscal year (hereinafter referred to as the "Revenues"). Such Revenues shall not include Facility Investment Fees (FIFs) and interest income in the system capital project funds. The payments shall be made no later than thirty (30) days after the end of each month during the fiscal year or at such other periodic intervals as determined by the Finance Department of the Clerk of the Circuit Court.

Section 4. The payments in lieu of franchise fees in the amount of 5.9 percent of the

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Revenues from the Manatee County public utilities system to the general fund shall continue to be paid each month or at such other periodic intervals as determined by the Finance Department of the Clerk of the Circuit Court until amendment, repeal or rescission of this resolution by the Board of County Commissioners.

Section 5. The payments in lieu of franchise fees shall be paid as Operating Expenses of the Manatee County public utilities system from monies available in the Revenue Fund established pursuant to the Resolution.

Section 6. The Chairman of the Board of County Commissioners and the Clerk of the Circuit Court and other appropriate officials of Manatee County are hereby authorized and directed to take appropriate action to implement and carry out the intent of this resolution.

Section 7. In the event that any provision, portion or section of this resolution is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining provisions, portions or sections of this resolution which shall remain in full force and effect.

Section 8. This resolution shall become effective immediately upon adoption by the Board of County Commissioners. The obligation to make payments in lieu of franchise fees required by this resolution shall become effective October 1, 2013, and shall apply to the Revenues collected during the 2014 fiscal year and all fiscal years thereafter until this resolution is amended, repealed or rescinded by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 30<sup>th</sup> day of July, 2013.

ATTEST: R. B. SHORE  
Clerk of the Circuit Court

BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA

By: [Signature]  
Deputy Clerk



By: [Signature]  
Chairman