

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE SETTING USER RATES AND CHARGES FOR SALES AND SERVICES OF THE SANITARY SEWER SYSTEM OF THE CITY OF INDUSTRY, TEXAS; PRESCRIBING THE TIME FOR PAYMENT OF ACCOUNTS AND PENALTIES FOR NON-PAYMENT; SETTING DEPOSITS FOR UTILITIES; PRESCRIBING A DATE SUCH RATES AND CHARGES SHALL BECOME EFFECTIVE; REPEALING ORDINANCES, RESOLUTIONS, AND ORDERS IN CONFLICT HERewith (INCLUDING BUT NOT LIMITED TO ORDINANCE NOS. 23, 27, 27a AND 29); PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Industry, Texas, (the "City"), a duly incorporated Type A general law municipality, having less than 5,000 inhabitants, operating and existing under the laws of the State of Texas, has constructed a municipal sanitary sewer system (the "System"); and

WHEREAS, the City believes it is proper to establish and prescribe rates and charges to be imposed and collected by the City in connection with operation of the System and the manner and procedure for the billing and collection thereof, and

WHEREAS, the City has the authority and power pursuant to the provisions of Chapter 1502, as amended, Texas Government Code, to construct and operate a distribution system for the collection, transport, processing, disposal of, and control of domestic, industrial, and commercial waterborne wastes ("Sanitary Sewer") in the City and serving Sanitary Sewer customers within the area described in maps filed in the City Offices, and to establish and prescribe rates and to impose charges to be collected by the City in connection with the operation of the System and to establish the manner and procedure for the billing and collection thereof; and

WHEREAS, the City has found and determined that the construction, operation and maintenance of the System is in the best interests of the citizens of the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDUSTRY, TEXAS THAT:

SECTION 1: The monthly rates and charges for the sewer service provided by the System to all customers who receive water service on a metered basis shall

be based upon the actual monthly metered water usage by each customer of the System as provided in Annex A and as measured by the West End Water Supply Corporation (the Corporation”) or the Corporation’s successors and assigns, pursuant to the terms of the Interlocal Agreement (the “Agreement”) entered into by the City and the Corporation, dated May 14, 1997.

SECTION 2: All property including, but not limited to, facilities, buildings, structures or sites receiving sewer service from the System after December 8, 1999 must receive water service on a metered basis from the Corporation and a separate meter shall be installed for each family dwelling, commercial establishment or property served with water, *i.e.*, there shall be no dual connections or more than one customer on a single meter. This section does not apply to property including, but not limited to, facilities, buildings, structures, or sites that receive water service from a private well located on the owner’s property prior to December 8, 1999. Except as “grandfathered” by this section, all residents and commercial entities located within the City must obtain their water and sanitary sewer service from the City’s water and sanitary sewer system. Any person who hereafter does not follow this mandatory hook-up policy may be subject to any penalties, fines, or other remedies available to the City or the Corporation under applicable law.

SECTION 3: The Corporation, pursuant to the terms of section six (6), page four (4) of the Agreement under the heading “The Corporation Agrees,” shall furnish the City, on or about the 12<sup>th</sup> day of each month, with an itemized statement of the amount of water determined to be consumed by each customer of the System by their individual monthly meter readings as provided in Annexes A and B and as delivered to each customer at the billing address provided by the customer to the Corporation.

SECTION 4: The monthly rates and charges for the sewer service provided by the System to all residential customers receiving metered water service from the Corporation will be based upon the individual monthly volume of water usage for each residential customer of the System as provided in this Ordinance and Annex A thereto and the same are hereby established as described herein.

SECTION 5: **Grinder Pumps:** Grinder pumps shall be purchased and maintained by the City. Grinder pumps shall be installed by the property owner in compliance with City’s specifications. All piping and connections to grinder pumps shall be made by the property owner’s licensed contractor or plumber. Grinder pump control boxes and wiring shall be installed by a licensed electrical contractor according to the City’s specifications and shall be inspected by the City’s Licensed

Sewer Inspector. The property owner shall pay all fees prior to connection to the sewer system, including engineering and inspection fees.

Grinder pumps and control boxes are purchased and owned by the City of Industry. The grinder pump, pit and control box will be installed by owner per the City's specifications. All piping and connection to grinder pumps shall be completed by owner's licensed plumber. The control box and wiring are to be installed by a licensed electrical contractor and inspected by the City's Licensed Sewer Inspector. After installation of a grinder pump, a start-up will be performed by the City of Industry after electricity is brought to the control box and the homeowner is ready for use. If any grinder pump is used prior to the City start-up procedure of said grinder pump, the homeowner will be responsible for the payment of all cost of repairs, maintenance, labor of said grinder pump. All fees shall be paid prior to connecting onto the sewer system, including engineering and inspection fees.

All existing grinder pumps installed before August 1, 2020 are to be repaired and maintained by the City of Industry. Normal repairs resulting from normal wear and tear will be paid by the City. However, if damage to a grinder pump is the result of improper use or negligence by the homeowner the cost of said repairs, maintenance, and labor shall be paid by the customer. All fees for repair must be paid prior to repairs being made. The cost of repair, replacement or maintenance of grinder pumps installed on or after August 1, 2020 shall be paid by the customer.

SECTION 6: The monthly rates and charges for the sewer service provided by the System to all business and commercial customers (including schools) and industrial customers of the System receiving metered water service from the Corporation will be based upon the individual monthly volume of water usage for each business and commercial customer (including schools) and industrial customers of the System as provided in Annexes A and B to this Ordinance and the same are hereby established.

SECTION 7: All rates, charges and fees for water and/or sanitary sewer service provided by the City shall be paid to the City Secretary pursuant to this Ordinance and as provided in the Service Agreement.

SECTION 8: The monthly rates and charges for sewer service shall become due and payable on the due date specified on the billing statement or the 15<sup>th</sup> day following the mailing date as described in section six (6), page four (4) of the Agreement under the heading "The Corporation Agrees."

SECTION 9: The monthly rates and charges for sewer service provided by the System and the monthly rates and charges for water services provided by the Corporation shall be billed and collected simultaneously by the Corporation.

SECTION 10. No free sewer service shall be provided to any person, corporation or other type of business entity, charitable entity or governmental entity including the City of Industry.

SECTION 11: Prior to installing underground cables or other utility services in the area of the City's sewer collection lines, representatives of utility companies shall contact the City's authorized representative to file such companies' construction plan and schedule and to review the engineering plans illustrating the location of the City's sewer lines. Every customer of the City shall permit the City's employees, officers, or agents to enter such customer's premises or structure located thereon to examine such customer's utility infrastructure and other fixtures to determine the manner in which sanitary sewer service is used, that the construction, installation and operation of such items are in compliance with the terms hereof, and for the purpose of reading, testing and repairing meters.

SECTION 12: (a) The Mayor of the City (upon obtaining the approval of the majority vote of the City Council) is hereby granted the authority to seek legal and/or equitable remedies for violations of this Ordinance, including the filing of criminal charges. For the purpose of enforcing this Ordinance, the Mayor of the City shall retain legal counsel approved by the City to represent the City in civil enforcement actions, by and through the City, and is hereby authorized to seek legal and/or equitable remedies against any person or entity which is reasonably believed to be violating or to have violated this Ordinance. A legal proceeding pursued under this Ordinance does not constitute a waiver by the City of any right a municipality may have to join in a legal action originating from an alternative source of law. The City may commence such action for appropriate legal and/or equitable relief in courts having proper jurisdiction and may seek civil penalties and any other legal or equitable relief available under common law or any other applicable local, state, or federal code or statute.

(b)(1) Criminal. A conviction for violation of this Ordinance shall constitute a "Class C" misdemeanor. A person convicted of a violation of this Ordinance shall be fined not less than two hundred dollars (\$200) per violation. Each violation of a particular section of this Ordinance shall constitute a separate offense, and each day

an offense continues shall be considered a new violation for purpose of enforcing this Ordinance.

(b)(2) Civil. A civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) per violation of this Ordinance may be imposed. Each violation of a particular section of this Ordinance shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of assessing civil penalties and otherwise enforcing this Ordinance.

(c) This Ordinance is subject to all applicable federal and state laws and any applicable permits, ordinances, rules, orders and regulations of any local, state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction.

(d) All notices of violations shall be issued in writing by the City's authorized representative and shall be served upon the customer by delivering a copy of same to an employee, manager, officer, or owner of the customer or by mailing a copy of such notice to the business address of the customer by certified mail, return receipt requested. The customer has the right to contest any notice of violation by responding in writing within five days of receipt of the notice. Such response must be mailed by certified mail, return receipt requested, to Post Office Box 39, Industry, Texas 78944 or delivered to the City's authorized representative at 17210 Fordtran Boulevard, Industry, Texas 78944, unless another address is specified in the notice of violation. The City Council, or in the event it is impracticable for the City Council to meet, a member of the City Council shall review each response to a notice of violation before a penalty is assessed or service is terminated.

(e) The City reserves the right to make such other rules and regulations, policies, and provisions as the City considers necessary to operate, preserve, protect, and economically administer the City's System.

SECTION 13: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of the Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 14: All ordinances and resolutions, or parts thereof (including, but not limited to Ordinance Nos. 23, 27, 27a and 29, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent

of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordered herein.

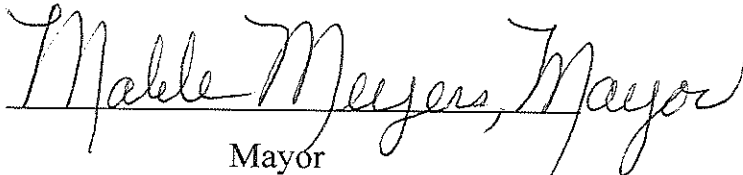
SECTION 15: This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 16: If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 17: It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 18: This Ordinance shall be in force and effect from and after its final passage, and it is so ordered.

PASSED AND APPROVED, this the 14<sup>th</sup> day of October, 2020.

  
Mayor

ATTEST:



City Secretary

(CITY SEAL)

## ANNEX A

### GENERAL TERMS OF SERVICE:

SECTION 1. Upon application being made to the City for sewer service, the City Secretary shall collect \$300.00 of the appropriate connection fee for sewer service. Before such applicant is connected to the sewer system the full connection fee of \$1,000.00 and all actual cost of labor and materials must be paid.

### CUSTOMER DEFAULT

SECTION 2: In the event a customer of the System should fail to make complete payment of the statement by the due date specified on the statement or the 15<sup>th</sup> day following the mailing date, whichever is the later, said statement shall be deemed delinquent and shall be subject to a penalty of increased sewer charges in the amount of not less than \$2.00 or more than \$40.00, but not to exceed 5% of the delinquent bill. These penalties are in addition to any delinquent payment fees assessed by the Corporation for water service.

In the event a customer of the System does not pay the full amount of a monthly bill (including all applicable penalties) within fifteen (15) days from the date the same becomes due and payable, the City Secretary shall notify such customer that all sewer service provided by the System and all water services provided by the Corporation shall be disconnected unless full payment of the amount due and owing the City and the Corporation is made within ten (10) business days. If payment of the full amount due the City and the Corporation, including delinquent charges, is not made within ten (10) business days from the date such delinquent notice is given, the City Secretary shall notify the proper City and Corporation officials to disconnect the service supplied; and such services shall not be resumed to such customer until the full amount due and owing the City and the Corporation, including all penalties and delinquent charges and a reconnection fee of \$50.00 is paid by the customer.

### SECTION 3: Computation of Monthly Bills

#### 3a. - Computation of Monthly Bills

Monthly bills to residential customers shall be computed on the basis of the winter averaging sewer charge period or the interim averaging sewer charge period depending upon the circumstances in each case. The winter average sewer charge and the interim average sewer charge are defined as:

*Winter average charge:* the monthly sewer service charge established by the System during the winter averaging sewer charge period. This charge is the basis for monthly billings until completion of the next entire winter averaging sewer charge period.

*Interim average charge:* The monthly sewer service charge established by the System during the interim average sewer charge period. This charge is the basis for monthly billings until completion of the next entire winter averaging sewer charge period and becomes the basis for subsequent monthly billings.

Customers who have not yet established either a winter average or an interim average shall be billed the unmetered residential charge. The unmetered residential charge is a temporary flat rate charge to new customers who have not yet established either a winter average or an interim average upon which monthly sewer service charges would be based. The unmetered residential charge for sewer service provided by the System is a flat rate of \$25.00 per month.

### 3b. - Winter and Interim Averaging Periods

The Winter and Interim Averaging Periods are defined as follows:

*Winter averaging sewer charge period.* The period of water and sewer service during the three (3) complete consecutive billing periods commencing on or after December 15 of each year and terminating on or after the completion of three full billing cycles in March of each year. Accordingly, the “winter average” months shall be January, February, March of each year. During the three (3) complete consecutive billing periods the System shall establish monthly sewer service charges for customers based upon their average monthly water consumption during the three (3) complete consecutive billing periods.

*Interim average sewer charge period.* The period of water and sewer service during three (3) complete monthly billing periods during which the System



establishes monthly sewer service charges for customers based upon their monthly water consumption during that period. This interim averaging sewer charge period is to be used only in determining monthly sewer service charges when the customer has not yet established a winter average by the method outlined in the definition of winter averaging sewer charge period above.

### 3c. - Final Billings

For all final billings, either the winter average charge, or the interim average charge, or the unmetered residential charge, whichever is in effect at the termination of service for residential customers, will be prorated by dividing the applicable sewer service charge by thirty (30), and multiplying by the number of days that sewer service was actually received during the final month. However, final billings shall not be greater than the applicable sewer service charge and shall not be less than the minimum sewer service charge stated in Section 2b above.

### 3d. New Customers Who Have Not Established Monthly Sewer Service Charge by Previous Residency Within the Service Area During the Preceding Six Months

New customers who move into the service area after the first day of a billing period and before the last day of that billing period will be billed on a prorated basis by dividing the unmetered residential charge, as stated in Annex A, Section 3(a), by thirty(30) and multiplying by the number of days that sewer service was actually received. However, the bill for service received during the initial billing period shall not be less than the minimum sewer service charge stated in Annex A, Section 1.

New customers will pay the unmetered residential charge as stated in Section 1 of Annex A, during the first three (3) complete billing periods while an interim average charge based upon water consumption is established. The interim average charges shall not be less than the minimum monthly sewer service charge stated in Section 1 of Annex A.

Once the interim average charge is established, it shall be the monthly sewer service charge through the end of the next complete winter averaging sewer charge period. Once the winter average charge is established, the interim average charge shall no longer be the basis for the monthly service charge.

3e. Initial Billings for Customers Relocating Within the Service Area

Customers who relocate within the service area will receive an initial bill at their new residence based upon either the winter average charge or the interim average charge, or the unmetered residential charge, depending upon which charge has been the basis for monthly billings at the previous residence. The applicable charge will be prorated by dividing it by thirty (30) and multiplying by the number of days that sewer service is actually received during the first month of the new residence. However, initial billings shall not greater than the applicable monthly sewer service charge and shall not be less than the minimum sewer service charge stated in Section 1 of Annex A. After this initial billing, the customers described above will continue to be billed monthly sewer service charges based upon the full monthly charge established at their previous residence. This applicable charge shall serve as the basis for monthly billings until the end of the next complete winter averaging sewer charge period.

The rates described in Annex A apply to all residential and business customers inside the City Limits. Residential and business customers outside the City Limits shall pay the same sewer rate set for residential customers within the City Limits.

SECTION 4: All residential customers who receive unmetered water service shall pay a flat fee of Thirty and no/100 Dollars (\$30.00) per month to receive sewer service from the System.

SECTION 5: All business, commercial and industrial customers receiving unmetered water service shall pay a flat fee of Thirty and no/100 Dollars (\$30.00) per month to receive service from the System.

SECTION 6: In addition to the monthly rates and charges for sewer service, the following fees and charges shall be imposed by the City on all new customers in connection with the operation of the System, to wit:

Connection cost for sewer service:

Gravity Flow Connection - \$1,000.00 filing and administrative fee plus actual cost of labor and materials.

Grinder Pump Connection - \$1,000.00 filing and administrative fee plus actual cost of labor and materials (including cost of grinder pump).

SECTION 7: All fees, including the City Engineer's inspection fee, must be paid in full prior to the commencement of utility service.

SECTION 8: Residential, Business and Commercial Sewer Rates

### **Residential and Business Sewer Rates**

#### Monthly Service Charges

Monthly service charges are based on the metered water billing for the month.

First 1,000 gallons per month	\$20.00
All excess of 1,000 gallons per month, per 1,000 gallons	\$1.50
Minimum charge	\$20.00

### **Commercial Sewer Rates**

#### Monthly Service Charges for Business and Commercial Customers

Monthly service charge to be based on the monthly metered water usage.

First 1,000 gallons per month	\$20.00
All excess of 1,000 gallons per month, per 1,000 gallons	\$1.50
Minimum charge	\$20.00

Business and commercial customers who move into the service area after the first day of a billing period shall be billed on a prorated *per diem* basis.

## Industrial Sewer Rates

### 1. Monthly Service Charges for Industrial Customers

The monthly sewer service charge for industrial customers is based on the monthly metered water usage. If the City's agents determine that a large portion of the monthly water usage is not discharged into the City's sanitary sewer system, the monthly service charge may be based on estimated or metered monthly gallons of wastewater discharged into the City's sanitary sewer systems. The City will develop administrative procedures for determining the estimated amounts of water usage that goes into the sanitary sewer system for treatment that comes from industrial customers. A surcharge will be computed by the City for the cost involved in treating sewage that has strengths in excess of two hundred (200) milligrams per liter (BOD) and two hundred (200) milligrams liter (TSS).

Monthly service charge (exclusive of any surcharges or other applicable charges):

First 1,000 gallons per month	\$20.00
All excess of 1,000 gallons per month, per 1,000 gallons	\$1.50
Minimum charge	\$20.00

Industrial customers who move into the service area after the first day of a billing period and before the last day of that same billing period will be billed on a proration *per diem* basis.

Industrial customers who relocate within the service area after the first day of a billing period and before the last day of that same billing period will be billed on a prorated *per diem* basis.

### SECTION 9: Monthly Service Charges for Schools

#### A. Schools with Separate Water Meters

Schools with water meters to measure separately irrigation and/or other volumes of water not entering the sewer system and therefore not charged for sewer service through these meters shall be assessed charges with sewage flow for billing purposes computed as one hundred (100) percent water consumption.

B. Schools Without Separate Water Meters

Schools without water meters to measure separately irrigation and/or other volumes of water not entering the sewer system and therefore not charged for sewer service through these meters shall be assessed charges based on sewage flow for billing purposes computed as seventy (70) percent of water consumption.

The rates described herein apply to all business and commercial customers (including schools) and industrial customers inside the City Limits. Business and commercial customers (including schools) and industrial customers outside the City Limits shall pay the same sewer rate set for customers within the City limits.

of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordered herein.

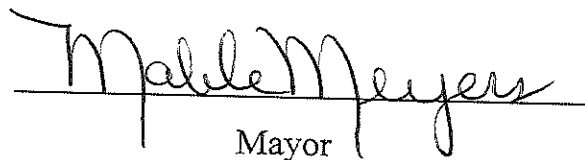
SECTION 15: This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 16: If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 17: It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 18: This Ordinance shall be in force and effect from and after its final passage, and it is so ordered.

PASSED AND APPROVED, this the 14<sup>th</sup> day of October, 2020.

  
Mayor

ATTEST:



City Secretary

(CITY SEAL)