

PAYMENT COLLECTION AND REMITTANCE AGREEMENT

THIS PAYMENT COLLECTION AND REMITTANCE AGREEMENT (hereinafter referred to as the "Agreement") is made as of the 11th day of March, 2019, between **THE CITY OF LEESBURG, FLORIDA** a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **AMSCOT CORPORATION**, 600 North Westshore Boulevard, Suite 1200, Tampa, FL 33609-1117 (hereinafter referred to as the "Amscot").

WHEREAS, the CITY is engaged to provide payment related services to the citizens of the City of Leesburg, Florida (the "Services") and is desirous of retaining Amscot to collect certain identified payments for the Services from customers the "Customers and remit them electronically to the CITY Department of Finance ("DF"); and

WHEREAS, Amscot is registered with and authorized by the State of Florida under provisions of Chapter 560, Florida Statutes, to act as a funds transmitter and is desirous of collecting certain identified payments from Customers and remitting them to DF.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the CITY and Amscot (Parties) hereto and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. SERVICES AND PROCEDURES

- a. Periodically, CITY shall provide Amscot with a data file which identifies DF transactions that may be paid through Amscot. Amscot agrees to accept payment in cash only from Customers on these transactions identified by DF ("Approved Payments").
- b. Each day, Amscot will collect Approved Payments from Customers at Its retail locations and will end the collection of Approved Payments at 11:59 pm, EST the same day. Prior to 1:30 am, EST, the next day, Amscot will send to DF Office via secure ftp, an electronic credit file in the DF specified format for posting to each Customer's account. The electronic file will be comma-delimited and quote delineated, and will include: Payment Amount, Payment Date, Customer Account Number, Customer Name, Receipt Number, and Location Code. Changes In the specifications may be required as business requirements change. The electronic files will remain available to the CITY for up to ninety (90) business days.
- c. The next business day which is a banking day, on or before 6:00 p.m., EST, Amscot will initiate an ACH transfer in the aggregate amount of all Approved Payments collected from Customers the previous day (the "Daily Amount") to a depository account designated by and titled in the name of the CITY. (The exception to this is when the banking day follows a bank holiday and/or weekend. In this case, Amscot will initiate a separate ACH transfer for the amounts collected on each day since the last banking day). The Daily Amount shall equal the Credit Amount.

- d. Upon collection of the Approved Payments, Amscot shall provide the Customer with a receipt containing the following:
 - i. DF's name and Customer's account number;
 - ii. Transaction reference number, date and time; and
 - iii. Administrative fee and total payment amount.
- e. Upon receipt of the credit file, the CITY shall post to each Customer's account the amount of the Approved Payments collected by Amscot.
- f. File Requirements
ASCII text file
 - Fixed record lengths
 - Fixed field lengths - All field delimiters removed (no spaces, commas, quotes, special characters, etc.)
 - Numeric fields should be *right-adjusted and zero filled*. No edit characters within fields (no decimal points, CR, +/-, blanks, colons, slashes, etc.)
 - Alpha fields should be *left-adjusted and blank filled*.
 - Required fields:
For CIS (CX Application) payments
 - Customer ID (9 digits — Right-adjust and Zero fill)
 - Location ID (9 digits — Right-adjust and Zero-fill)
 - Payment Amount (9 digits - Including 2 decimals *implied*, i.e. 000999999 — \$9,999.99 — Right-adjust and Zero-fill)
- g. Additional Technical Specifications will be provided from time to time.

2. COMPENSATION

Amscot shall not charge the CITY for any direct or indirect cost for providing the services described in this Agreement. Amscot will charge the CITY an administrative fee of \$1.50 for each of the Approved Payments collected from a CITY utility customer. Amscot shall bill and collect such administrative fee from the CITY on a monthly basis by issuance of an invoice.

3. COMPLIANCE WITH AND REGULATIONS

Amscot agrees to conduct all of its acts, practices, and business activities under this Agreement in compliance with all applicable federal, state of Florida and local laws and regulations. In the event that compliance with any provision of this Agreement would cause either of the Parties to violate any such laws or rules, the Parties agree to attempt to negotiate in good faith an amendment hereof eliminating or modifying the provision Involved while retaining insofar as practicable the previous respective positions of the parties relative to each other.

4. HOLD HARMLESS AND INDEMNIFICATION

Amscot shall be fully liable for all actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the CITY and its officers, agents, and employees, from suits, actions, damages, and cost of every name and description, including attorney's fees, arising from or relating to personal Injury and damage to real or personal tangible property alleged to be caused in whole or in part by Amscot, its

agents, employees, partners, or subcontractors; provided, however, that Amscot shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the CITY. Further, Amscot shall fully indemnify, defend, and hold harmless the CITY from any suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the CITY shall give Amscot (1) written notice of any such action or threatened action, (2) the opportunity to take over and settle or defend any such action at Amscot's sole expense, and (3) assistance in defending the action at Amscot's sole expense. Amscot shall not be liable for any cost, expense, or compromise incurred or made by the CITY in an infringement action without Amscot's prior written consent, which shall not be unreasonably withheld. Unless otherwise specifically enumerated in the Agreement, no party shall be liable to another for special, indirect, or consequential damages, including lost data or records, even if the party has been advised that such damages are possible. The CITY will not provide any indemnity to Amscot or any person or entity as a condition of the Agreement.

5. PROMOTION OF SERVICES

- a. CITY shall advise those members of the public who qualify to make an Approved Payment of the availability of payment, collection and remittance services provided by Amscot pursuant to this Agreement and may use the name "Amscot" and Amscot's registered marks in such efforts. Among other things, CITY shall post a notice on its public website and on its monthly statements advising the public of the availability of Amscot's payment, collection and remittance services.
- b. Amscot shall use its best efforts to promote to the Customers the payment collection and remittance services provided by Amscot pursuant to this Agreement and may use the name "City of Leesburg, Department of Finance " and the CITY's logo in its promotional efforts and materials, with the prior written consent of the DF as to each of such promotional efforts and materials.

6. TERM

- a. This Agreement is effective on the date indicated in the preamble to this Agreement and shall remain in effect unless terminated by either party in accordance with the termination clause within this Agreement.
- b. This Agreement shall automatically renew from year to year unless terminated by either party by written notice.

7. TERMINATION

- a. Either Party upon sixty (60) days written notice provided to the other Party may terminate this Agreement at any time without cause.
- b. This Agreement may be immediately terminated, and no further benefits or compensation will accrue, if one of the Parties violates this Agreement or any requirements of law or rule.
- c. All indemnities set forth in paragraph 4 of this Agreement shall survive for one year following the termination.

8. COSTS AND EXPENSES, PLACE OF BUSINESS

Amscot shall bear all of its own costs and expenses, including rent, utilities, travel, postage, and any other business expenses, in connection with its performance of duties and obligations under this agreement.

9. BEST EFFORTS; NONEXCLUSIVITY

Amscot agrees to use its best efforts to satisfy the terms and conditions of this Agreement; provided, however, that Amscot may perform services similar or identical to those provided to the CITY pursuant to this Agreement for other persons including but not limited to other municipalities in Florida and to other persons seeking the collection of funds through Amscot during the term of this Agreement.

Amscot is not the exclusive agent of the CITY for collecting payments from its customers and the CITY reserves the right to enter into similar or identical arrangements with other collection agents.

10. POINT OF CONTACT

CITY will provide a single point of contact to resolve any and all unpostable payments or payment research inquiries received from Amscot. CITY will make every reasonable effort to correct an unpostable payment internally before contacting Amscot.

11. AMENDMENT

The Parties may not modify or amend this Agreement except by writing signed by the Parties hereto.

12. NOTICES

All notices permitted or required by this Agreement to be in writing shall be deemed to have been duly given if sent by personal delivery, first class U.S. mail, or facsimile transmission to the applicable addresses set forth on the signature pages to this Agreement.

13. INDEPENDENT CONTRACTOR

Amscot is an independent contractor and this Agreement does not create a joint venture, partnership, affiliation, association or employment relationship with the CITY. Amscot agrees not to hold itself out as a joint venture, partner, affiliate, associate, or employee of the CITY. Amscot agrees that it is solely responsible for any tax, either state or federal, that may be due on compensation received under this Agreement, and for payment of any other taxes, fees, or charges that may accrue to and be payable by it because of the services performed under this Agreement.

14. MISCELLANEOUS

This Agreement shall be governed by and construed in accordance with the domestic laws of the state of Florida without giving effect to any choice or conflict of law provision or rule (whether of the state of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state of Florida.

- a. Amscot and the CITY hereby consent to personal jurisdiction and venue, for any action brought by Amscot or the CITY arising out of a breach or threatened breach

of this Agreement, in the Federal or State court In Lake County, Florida. Amscot and the CITY agree that any action arising under this Agreement or out of the relationship established by this Agreement shall be brought only and exclusively in this court. THE PARTIES WAIVE RIGHT TO JURY TRIAL.

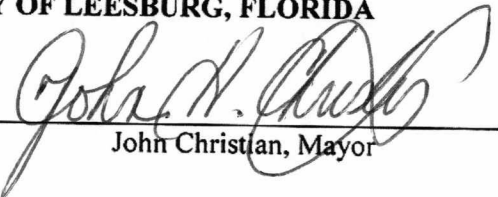
- b. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one or the same agreement. Amscot shall not, in connection with this or any other agreement with the CITY, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any CITY officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any CITY officer or employee. For purposes of clause (3), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or Agreements of any kind. Upon request of any authorized CITY official, Amscot shall provide any type of Information that is deemed relevant to Amscot's Integrity or responsibility. Such Information may include, but shall not be limited to, Amscot's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. Amscot shall retain such records for five years after the expiration of the Agreement. Amscot agrees to reimburse the CITY for the reasonable cost of investigation incurred by any authorized CITY official for investigations of Amscot's compliance with the terms of this or any other agreement between Amscot and the CITY which results in the suspension or debarment of Amscot. Such costs shall include, but shall not be limited to: salaries of investigators, Including overtime; travel and lodging expenses; and expert witness and documentary fees. Amscot shall not be responsible for any cost of investigations that do not result in Amscot's suspension or debarment.
- c. The CITY may terminate the Agreement if Amscot refuses to allow CITY access to all documents, papers, letters or other material made or received by Amscot in conjunction with the Agreement, unless the records are exempt under Florida law.
- d. Amscot shall not sell, assign or transfer any of its rights, duties or obligations under the Agreement without the prior written consent of the CITY. In the event of any assignment, Amscot remains secondarily liable for performance of the Agreement, unless the CITY expressly waives such secondary liability.
- e. Amscot shall comply fully with all information security procedures of the CITY in performance of the Agreement. Amscot shall not divulge to third parties any confidential information obtained by Amscot or its agents, distributors, resellers, subcontractors, officers, or employees in the course of performing Agreement work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the CITY. Amscot shall not be required to keep confidential Information or material that is publicly available through no fault of Amscot, material that Amscot developed independently without relying on the CITY confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, Amscot shall take appropriate steps as to Its personnel, agents, and subcontractors. The warranties

- of this paragraph shall survive the Agreement. In no event shall Amscot provide customer account information or nonpublic personal information to persons outside of Amscot for the purpose of independent telemarketing or direct mail solicitations.
- f. Amscot warrants that, to the best of its knowledge, there is no pending threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Amscot's ability to satisfy its Agreement obligations. Amscot warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. Amscot shall Immediately notify the CITY in writing if its ability to perform is compromised in any manner during the term of the Agreement.
 - g. Amscot shall keep all records relating to this Agreement In such a way as to permit their inspection. The CITY reserves the right to audit such records during the term of this Agreement and for a period of five years after the Agreement terminates.
 - h. Except as otherwise expressly provided for herein, the Agreement and any exhibits attached hereto and incorporated by reference contain the entire agreement of the Parties relating to the subject matter hereof and supersedes any prior agreements or presentations relating to such subject matter that are not set forth herein.
 - i. Amscot covenants and agrees that it shall comply with all applicable governmental laws, statutes, rules and regulations If Amscot fails to comply with all applicable legal requirements, such a failure shall render this Agreement voidable by the CITY and subject Amscot to debarment from any future CITY contracts.

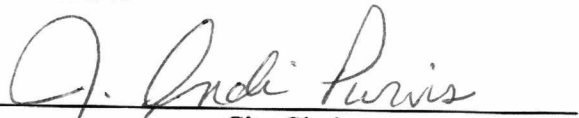
[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated in the preamble to the Agreement.

CITY OF LEESBURG, FLORIDA

By: 
John Christian, Mayor

ATTEST:


City Clerk

Approved as to form:


City Attorney

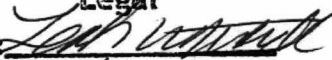
AMSCOT CORPORATION

By: 

Printed: Fraser Mackechnie

Its: President
(Title)

**Approved
Amscot Corporation
Legal**

By: 
Date: 2/26/19

RESOLUTION NO. 10,363

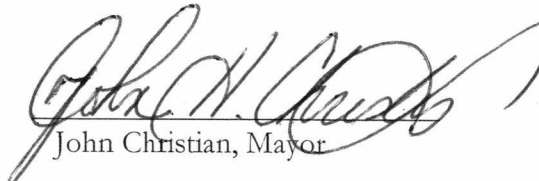
RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A PAYMENT COLLECTION AND
REMITTANCE AGREEMENT WITH AMSCOT CORPORATION;
AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG,
FLORIDA:

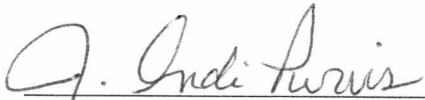
THAT the Mayor and City Clerk are hereby authorized to execute an agreement with AMSCOT CORPORATION whose address is 600 North Westshore Boulevard, Suite 1200, Tampa, Florida 33609-1117 (email: lwhitmill@amscotfinancial.com) for the collection of utility bill payments on behalf of the City.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the 11th day of March 2019.


John Christian, Mayor

ATTEST:


City Clerk



AGENDA MEMORANDUM

Item No: 4.B.3

Meeting Date: March 11, 2019

From: Mike Thornton, CPPO – Purchasing Manager for
James Williams, Finance Director

Subject: Resolution authorizing execution of a Payment Collection and Remittance Agreement

Staff Recommendation:

Staff recommends approval of the resolution authorizing execution of the Agreement with Amscot Corporation for the acceptance of utility bill payments.

Analysis:

The purpose of this Agreement is to establish a new Agreement with Amscot Corporation for the acceptance of customer payments for City utility services. On November 26, 2012, the City Commission approved an Agreement with Amscot to provide these services. That Agreement and all renewals have expired. This Agreement will reinstate the business arrangement between the City and Amscot.

The City's goal with this arrangement is to provide additional customer convenience by contracting with a firm that has multiple locations and extended hours for acceptance of in-person utility payments. The service allows individuals who prefer to make payments in person to take advantage of Amscot's convenient hours and locations. All Amscot branches are open seven days a week, 365 days a year. Roughly, one-third of Amscot branches are open 24 hours a day; the balance open at 7 AM and closes at 9 or 10 PM.

The City pays Amscot a \$1.50 service fee for each utility payment processed at an Amscot branch. Amscot sends an electronic file to the City containing the payment transaction information for automatic posting to customer accounts. The number of payments processed by Amscot consistently averages 350 per month.

Options:

- 1) Approve the resolution authorizing execution of the agreement with Amscot Corporation; or
- 2) Such alternative action as the Commission may deem appropriate.

Fiscal Impact:

The transaction fee paid by the City averages \$525.00 per month. The Finance Department budgets and pays for this expense each year.

Submission Date and Time: 3/8/2019 1:35 PM

Department: <u>Finance/Customer Service</u> Prepared by: <u>Mike Thornton</u> Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Advertised: <input type="checkbox"/> Not Required <input checked="" type="checkbox"/> Dates: _____ Attorney Review: Yes <input type="checkbox"/> No <input type="checkbox"/> _____ Revised 6/10/04	Reviewed by: Dept. Head _____ Finance Dept. _____ Deputy C.M. _____ Submitted by: _____ City Manager _____	Account No. <u>001-1334-513.34-10</u> Project No. _____ WF No. _____ Budget _____ Available _____
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