

## AGREEMENT

THIS AGREEMENT, made and entered into as of the 27<sup>th</sup> day of September, 2005, by and between PINELLAS COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners (hereinafter referred to as "COUNTY") and the CITY OF CLEARWATER, FLORIDA, a municipal corporation within said Pinellas County, acting by and through its CITY Commission (hereinafter referred to as "CITY").

### WITNESSETH:

WHEREAS, COUNTY and CITY have previously contracted for the sale and purchase of potable water to serve customers in CITY's water service area; and

WHEREAS, CITY, to insure an adequate supply of potable water for distribution to its citizens, desires to continue to purchase from COUNTY, a supply of potable water which COUNTY is able to furnish from and through its water supply transmission system; and

NOW, THEREFORE, in consideration of the monies hereinafter agreed to be paid and the mutual covenants contained herein, the parties hereby mutually agree as follows:

1. COUNTY agrees to furnish CITY up to 15 MGD yearly average of water for its use and for redistribution in its water service area, as shown on the attached sketch and marked as Exhibit "B" and incorporated herein by reference.
2. CITY shall have the exclusive right to distribute and make available water service to the customers within its water service area, as described in Exhibit "B", and may purchase from COUNTY potable water required to serve the customers within the designated area. At any point during the term of the Agreement, that the CITY determines to provide water for themselves or otherwise obtains a portion of their potable water needs from sources other than the COUNTY and the COUNTY

remains on a standby status to the CITY, for that portion obtained elsewhere, the CITY will be charged a standby fee, that will be determined at the time the CITY obtains water from other sources.

3. The CITY will utilize the connections located as noted in Exhibit "A" or other locations mutually agreed to by COUNTY and CITY.
4. The CITY and the COUNTY agree to maintain an effective cross connection control program in accordance with Federal, State and Local regulations, Safe Drinking Water Acts, FAC62-555.360 and patterned of COUNTY's Cross Connection Ordinance No. 77-11 and Pinellas County Code, Division 3, Cross Connection Control, Sec. 126-231 thru Sec. 126-244. Should any contamination or possibility of contamination occur in either party's water system, or should any other situation occur in either party's system that would in any manner contaminate the other party's water supply, the causing party will be responsible for any damage to the other party's water system which occurs from such conditions and shall immediately correct the cause of such contamination, take all necessary precautions to insure the protection of the other party's water supply and water system, and shall, if possible, within thirty (30) minutes of knowledge of such occurrence, notify the office of the other's party's Director of Utilities. If the CITY does not provide an ongoing cross connection control program, the COUNTY may require the installation of backflow devices at the meter connection.
5. The quantity of water delivered to CITY shall be quantified by a measuring device of standard make and sufficient size, selected and maintained by COUNTY. The measuring device shall be equipped with an indicating and recording register and a transmitter for telemetering remote readout. In the event future relocation is required

by either party, such party shall pay for all relocation costs.

6. The ownership of the flow measuring and backflow devices will remain with CITY. CITY will not change, alter, add to, or take away any part of any flow measuring or backflow device without prior approval of COUNTY. COUNTY will, at its expense, install and retain ownership of the telemetering line from the measuring device to the point of readout.
7. To assure accuracy, the flow-measuring devices shall be tested yearly by COUNTY with results delivered to CITY's Utilities Director within 30 days of test. At other intervals of time, should any question arise as to the accuracy of any flow measuring device, CITY may require any or all of the flow measuring devices to be tested. Should the tests show the flow measuring device to be registering within an accuracy of two and one half (2-1/2) percent, CITY shall bear all the expense incurred in the testing. If the tests show the flow measuring device not to be registering within two and one half (2-1/2) percent accuracy, COUNTY will pay all the expense incurred in the testing and will immediately repair the flow measuring device. For any meter found inaccurate, COUNTY will adjust the previous month's or months bills, as appropriate, to reflect the result of the test.
8. COUNTY agrees that the supply of water to be delivered hereunder shall be at all times continuous, except that temporary cessation of delivery of water at any time by an Act of God, fires, strikes, casualties, accidents, breakdowns of or injuries to machinery, pumps or pipelines, civil or military authority, insurrection, riot or any other cause beyond the control of COUNTY shall not constitute a breach of this Agreement on the part of COUNTY, and COUNTY shall not in such case be liable to CITY or its inhabitants for any damage resulting from an unavoidable cessation of



delivery related to one of the causes stated in this paragraph.

9. It is recognized by both parties hereto that COUNTY supplies water to other municipalities on a wholesale basis, and also to many thousands of retail users, and it is agreed that at any time when the total demand for water by all of the users, including CITY, exceeds the capacity of COUNTY's water supply and distribution system, both wholesale and retail customers will receive equal priority for the supply of water; and in such event, the inability of the COUNTY to supply either the wholesale or retail customers' full requirements and needs shall not constitute a breach of this Agreement on the part of COUNTY. CITY agrees that should the Director of Pinellas County Utilities declare an emergency to exist in the supply of water for COUNTY'S water system, the Director shall have the right and complete authority to allocate or pro-rate water supply to CITY based upon existing needs of the system, past and present demands on the system by CITY, and all other reasonable circumstances then existing at the time of the emergency.
10. In the event that COUNTY is unable to furnish the amount of water CITY needs to supply its service area, CITY shall be entitled to purchase water from other sources for such supply until such time as COUNTY can again furnish CITY's water needs.
11. All water delivered under this Agreement shall conform to applicable State and Federal laws and regulations and the standards of the State of Florida Department of Health and the Florida Department of Environmental Protection. COUNTY will notify the CITY if water provided to the CITY fails to meet any of the above Federal or State of Florida regulations or standards.
12. COUNTY will bill CITY for water used on a monthly billing cycle. Each month COUNTY will read and record the reading on the register of each of the flow

measuring devices and compute the volume of water that has been quantified by the measuring device during the billing cycle. CITY will, within thirty (30) days from the receipt of the bill, make payment to COUNTY of the amount shown on the bill. Failure of CITY to pay when due any amounts billed, under the terms of this Agreement, shall constitute breach of this Agreement and COUNTY's obligation to furnish water may then be voided at COUNTY's option. Prior to voiding the agreement, City shall provide written notice of any disputed amounts billed within ten (10) days of receipt of such billing. The parties shall resolve said disputed amount within thirty (30) days of the date of City's notice of dispute or submit the controversy to arbitration, to be settled in accordance with the commercial arbitration rules of the American Arbitration Association. However, either party may reject the arbitration award by commencing legal action on the dispute within thirty (30) days after the rendering of the award. If rejected by the commencement of a legal action as provided in this paragraph, the award shall be deemed void and shall not be admissible for any purpose in the legal action. Unless the award is rejected as provided in this paragraph, the circuit court of the county in which the award is made may enter judgment confirming the award. If payment is not made within the time provided in Section 218.335, Florida Statutes, the CITY will pay to the COUNTY interest at the rate established by Section 55.03, Florida Statutes.

13. CITY will be billed for the water recorded by the flow measuring device at the wholesale rate established by the Board of County Commissioners. The wholesale rate will be based on a pro-rata share of revenue requirements of the COUNTY'S water system to include only those reasonable treatment and transmission costs that can be shown to be required for the supply of water to COUNTY wholesale water

users. The rate will become effective October 1 of the same fiscal year as the budget, and may then be revised at any time by the Board as necessary to meet the revenue requirements of the COUNTY'S water system. However, revisions after October 1st which result in increased rates will not be effective until at least sixty (60) days after adoption by the County Commission. Adequate notice, of not less than thirty (30) days, will be given to CITY before any proposed rate increase is adopted. The following factors shall be used in determining the municipal rate referred to herein:

- A. Operation, maintenance, renewal and administrative costs.
  - B. Payment obligations of annual principal and interest payments on COUNTY'S water system bonded indebtedness.
  - C. Collection of coverage or other reserves as required by Bond Resolutions and Ordinances.
  - D. Pro-rata share of the costs of providing treatment, transmission and storage facilities for expansion through revenues of water sales.
  - E. Payment of the cost of the water to COUNTY purchased from other agencies, plus other costs to COUNTY required to furnish water to CITY as described in A through D of this paragraph.
14. On or before March 1 each year during the term of this Agreement, CITY will notify COUNTY on form provided by COUNTY of CITY's projected requirement by the month for forthcoming year, together with a five (5) year projection of usage.
15. CITY will accept the potable water at the pressure in COUNTY's transmission mains. Notwithstanding paragraph 8 above, COUNTY will make every effort to maintain a minimum of 35 psi static pressure or greater at all points of delivery to CITY.



16. CITY will operate its system in such a manner so as to prevent peaking of flow rates that would place an unequal burden on COUNTY's facilities and be out of proportion to other customers of COUNTY's water system. Storage to accommodate peak flow demands will be included by CITY in the design and installation of the distribution system in CITY's water service area. "Peaking" is recognized to be the rate of flow which for any period of time exceeds a rate one and fifty five hundredths (1.55) times the average gallons per day on a yearly average.
17. All parties agreed that the area described in Exhibit "B" herein will be the farthest extension of retail water service by CITY into COUNTY's water service area, regardless of future annexation by CITY. Any encroachment by CITY beyond this service area boundary into COUNTY's water service area, without written agreement from COUNTY, shall constitute breach of this Agreement and COUNTY's obligation to furnish water beyond the established COUNTY service area boundary shall be void. It is the intent of both parties by adopting and observing this service area to avoid duplication of capital investment and maintenance costs and to render water service to the public as efficiently as possible. CITY recognizes the right of the Pinellas County Board of County Commissioners to designate water service areas for all municipalities in Pinellas County, and accordingly, CITY agrees not to extend any water line into COUNTY's water service area without approval of the Pinellas County Board of County Commissioners. In the event CITY shall wish to extend its water service area, CITY shall make appropriate application to the Pinellas County Board of County Commissioners for the passage of a resolution extending CITY's

service area as requested. CITY agrees to strictly abide by all decisions of the Board of County Commissioners in regard to applications or requests for extensions of the CITY water service area.

18. Nothing contained herein shall prevent the CITY from obtaining some or all of the water necessary to serve to its customers from any other source.
19. This Agreement shall be for a period of thirty (30) years commencing on the date of October 1, 2005 and terminating on September 30, 2035.
20. Both parties represent that the execution of this Agreement has been approved by the governing bodies of both parties in accordance with law and that both parties have the legal authority to execute this Agreement.
21. This Agreement replaces and supersedes all previous Agreements between COUNTY and CITY regarding water service.
22. This Agreement may be amended or terminated upon the mutual agreement of both parties, in writing.

IN WITNESS WHEREOF, the parties herein to have caused this Agreement to be executed by their respective authorized officers and it shall be effective on the day and year first above written.

ATTEST:  
KEN BURKE

By:  \_\_\_\_\_

Deputy Clerk

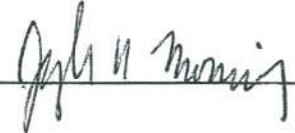
PINELLAS COUNTY, FLORIDA  
By and Through its Board of County  
Commissioners

By:  \_\_\_\_\_


Chairman



APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By: 


Countersigned:

  
Frank V. Hibbard  
Mayor


CITY OF CLEARWATER, FLORIDA

By:   
William B. Horne II  
City Manager

Approved as to form:

  
Leslie K. Dougall-Sides  
Assistant City Attorney

Attest:

  
Cynthia E. Goudeau  
City Clerk

## EXHIBIT "A"

### METER LOCATIONS & SIZE

METER LOCATION	SIZE
Belleair and Belcher	10"
Druid & Belcher	10"
Gulf to Bay Blvd, & Belcher	10"
SR580 Treatment Plant	06"
Countryside Mall #1	10"
Countryside Mall #2	10"
Sand Key	8"
U.S. 19 #1 Mazda	12"
U.S. 19 #2 Mazda	12"

# EXHIBIT "B"

