

### THIRD AMENDMENT TO LICENSE AGREEMENT

**THIS THIRD AMENDMENT TO LICENSE AGREEMENT** ("License") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **PINELLAS COUNTY**, a political subdivision of the State of Florida, ("**COUNTY**"), with offices located at 315 Court Street, Clearwater, Florida 33765, and the **CITY OF CLEARWATER** a municipal corporation of the State of Florida, ("**LICENSEE**") with offices located at 100 S. Myrtle Avenue, Clearwater, Florida 33756. COUNTY and LICENSEE are collectively referred to throughout this License as the "Parties" and individually as "Party."

**WHEREAS**, COUNTY owns and operates real property located in Pinellas County at 310 N. Myrtle Avenue, Clearwater and as depicted in the attached Exhibit A ("Licensed Area"); and

**WHEREAS**, LICENSEE wishes to access the Licensed Area for the purpose of having a Consultant conduct work including soil boring, drilling, monitor well installation, and sampling of new and existing wells ("Work"); and

**WHEREAS**, COUNTY agrees to allow LICENSEE to access and use the Licensed Area for these purposes; and

**WHEREAS**, pursuant to that certain License Agreement dated August 1, 2008, the COUNTY permitted LICENSEE to enter the Licensed Area and conduct the Work for a five (5) year term; and

**WHEREAS**, pursuant to that certain First Amendment to License Agreement dated May 30, 2013, the Parties extended the License agreement for an additional five (5) year term expiring July 31, 2018; and

**WHEREAS**, pursuant to that certain Second Amendment to License Agreement dated October 1, 2018 the Parties extended the License Agreement for an additional five (5) year term expiring July 31, 2023; and

**WHEREAS**, the Parties now desire to extend the License Agreement for an additional five (5) year term with two (2) automatic five (5) year renewal terms and to include additional terms and conditions.

**NOW, THEREFORE**, the COUNTY and LICENSEE, in consideration of the mutual covenants, promises, and representations contained herein, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

#### **Article 1. Exhibits**

This License consists of a primary agreement and two (2) exhibits, which are as follows:

Exhibit A: Licensed Area  
Exhibit B: Insurance Requirements

These Exhibits are attached hereto and are fully incorporated herein. In the event of a conflict between the terms and conditions provided in the Articles of this License and any Exhibit, the provisions contained within these Articles shall prevail.

## **Article 2. The Licensed Area**

COUNTY, in consideration of the payments required herein, and subject to the terms and conditions contained in this License, grants to LICENSEE, and its employees, officers, agents, contractors, and subcontractors, a non-assignable right for LICENSEE to use and occupy that portion of the Licensed Area depicted in Exhibit A to perform the Work.

## **Article 3. Term**

The rental period for the Licensed Area shall begin August 1, 2023 and end July 1, 2028 (“Initial Term”) unless earlier terminated pursuant to Article 6 herein. Either Party may extend the Initial Term for two (2) additional renewal terms of five (5) years each (“Renewal Terms”) by giving written notice to the other Party no later than thirty (30) days prior to the expiration date.

## **Article 4. Payment**

For the use of the Licensed Area LICENSEE shall pay a fee of ONE DOLLAR (\$1.00), the receipt and adequacy of which is hereby acknowledged.

## **Article 5. Conditions of Use**

- a. LICENSEE’S operations pursuant to the provisions of this License shall be in compliance with all applicable local, state, and federal laws, ordinances, rules, regulations, and/or other requirements. LICENSEE shall have and keep current at all times during the term of this License all licenses and permits as required by law.

LICENSEE agrees to deliver up, cease, and surrender to COUNTY the Licensed Area upon the expiration or earlier termination of this License LICENSEE shall be responsible for all costs and expenses associated with the removal of their temporary structures, furniture, and fixtures and the return of the Licensed Area to its original condition upon the termination of this License. LICENSEE will repair, at its own expense, any and all damage to the Licensed Area caused by LICENSEE’S use or activities. COUNTY will determine the extent of any damages and provide the LICENSEE with written notice that describes the damage and specifies the necessary repairs. The LICENSEE will complete the specified repairs within twenty (20) days from the date of the COUNTY’S written notice. If the LICENSEE fails to make the specified repairs, the COUNTY may make the repairs and shall be entitled to receive reimbursement from the LICENSEE for the costs of such repairs.

- b. Any activity not specifically permitted herein is prohibited under this License.

**Article 6. Termination**

Either Party may terminate this License at any time, with or without cause, subject to advance written notice of thirty (30) days made pursuant to Article 9 herein.

**Article 7. Insurance**

LICENSEE shall, at its own cost and expense, acquire and maintain (and cause any Subcontractors, representatives, or agents to acquire and maintain) insurance policies that comply with the Insurance and Bond Requirements, attached as Exhibit B, during the term of this License, to include any renewal terms.

**Article 8. Indemnification**

Each party shall bear responsibility for its own negligence and that of its employees and agents, subject to any limitations on liability established by law, including the provisions of Section 768.28, Florida Statutes. Nothing contained herein shall not be deemed a waiver of any immunity or limitation of liability either party may have under the provisions of Section 768.28, Florida Statutes, as it is amended from time to time.

**Article 9. Notices**

All notices, demands and other communications given hereunder shall be in writing and shall be deemed to have been duly given: (a) upon hand delivery thereof with written confirmation of receipt, (b) upon receipt through any commercial overnight delivery service, or (c) upon receipt by Certified Mail, Return Receipt Requested, to the addresses set forth below or at such other address, or to such other person and at such address for that person, as any Party shall designate in writing to the other Party for such purpose in the manner hereinabove set forth:

If to COUNTY:           Pinellas County Government  
                                  Department of Administrative Services  
                                  Facilities and Real Property Division  
                                  509 East Avenue South  
                                  Clearwater, FL 33756  
                                  Phone: (727) 464-3496  
                                  Email: realpropdiv@pinellas.gov Pinellas County Government

If to LICENSEE:        City of Clearwater  
                                  d/b/a Clearwater Gas Systems  
                                  Attn: Brian Langille  
                                  400 N. Myrtle Avenue  
                                  Clearwater, FL 33756  
                                  Phone: (727) 562-4911  
                                  Email: brian.langille@clearwatergas.com

With a copy to: William L. Pence, Esquire Baker Hostetler  
2300 SunTrust Center  
200 South Orange Avenue  
Orlando, FL 32801-3432  
Phone: (407) 649-4095  
Fax: (407) 841-0168

#### **Article 10. Entire Agreement**

This License sets forth all the promises, covenants, agreements, conditions and understandings between the Parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, expressed or implied, oral or written, except as herein contained.

#### **Article 11. Assignment**

This License shall be binding upon the Parties hereto, their beneficiaries, heirs and administrators, and does not confer any rights on any other persons or entities. LICENSEE may not assign this License without the prior written consent of COUNTY.

#### **Article 12. Amendment**

No amendment hereof shall be effective until and unless reduced to writing and executed by the Parties.

#### **Article 13. No Waiver**

No waiver of any provision of this License shall be effective unless it is in writing and signed by the Party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

#### **Article 14. Access to Licensed Area**

COUNTY shall have the right to enter and inspect the Licensed Area and the operation being conducted thereon at any reasonable time after notice and, if requested, in the presence of the LICENSEE for the purpose of inspecting or conducting tests upon the same, or for making repairs to the Licensed Area or to any property owned or controlled by COUNTY therein. Such repairs shall not unduly interfere with LICENSEE'S use of the Licensed Area except as is naturally necessitated by the nature of the repairs being affected.

#### **Article 15. Relationship of Parties**

Nothing contained herein shall be deemed or construed by the Parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the Parties hereto, it being understood and agreed that neither the

method of computation of rent, nor any other provision contained herein, shall be deemed to create any relationship between the Parties hereto other than the relationship of COUNTY and LICENSEE.

#### **Article 16. Headings**

The Article headings contained in this License are inserted for convenience only and shall not affect in any way the meaning or interpretation of the License.

#### **Article 17. Governing Law; Venue**

This License shall be construed in accordance with the laws of the State of Florida, and any proceeding arising between the Parties in any manner pertaining or related to this License shall be exclusively maintained in Pinellas County, Florida, or the United States District Court, Tampa Division, and all Parties hereby specifically consent to the jurisdiction of said courts.

**\*\* Signature Page Follows \*\***

**IN WITNESS WHEREOF**, the Parties have caused this License to be duly executed effective as of the date set forth above.

**LICENSEE**

\_\_\_\_\_  
Brian Aungst Sr  
Mayor

\_\_\_\_\_  
Jennifer Poirrier  
City Manager

Approved as to form:

Attest:

\_\_\_\_\_  
Michael P. Fuino  
Senior Assistant City Attorney

\_\_\_\_\_  
Rosemarie Call  
City Clerk

**PINELLAS COUNTY, FLORIDA**

BY: \_\_\_\_\_  
Joe Lauro, Director  
Department of Administrative Services

Date: \_\_\_\_\_

# Exhibit A: Licensed Area

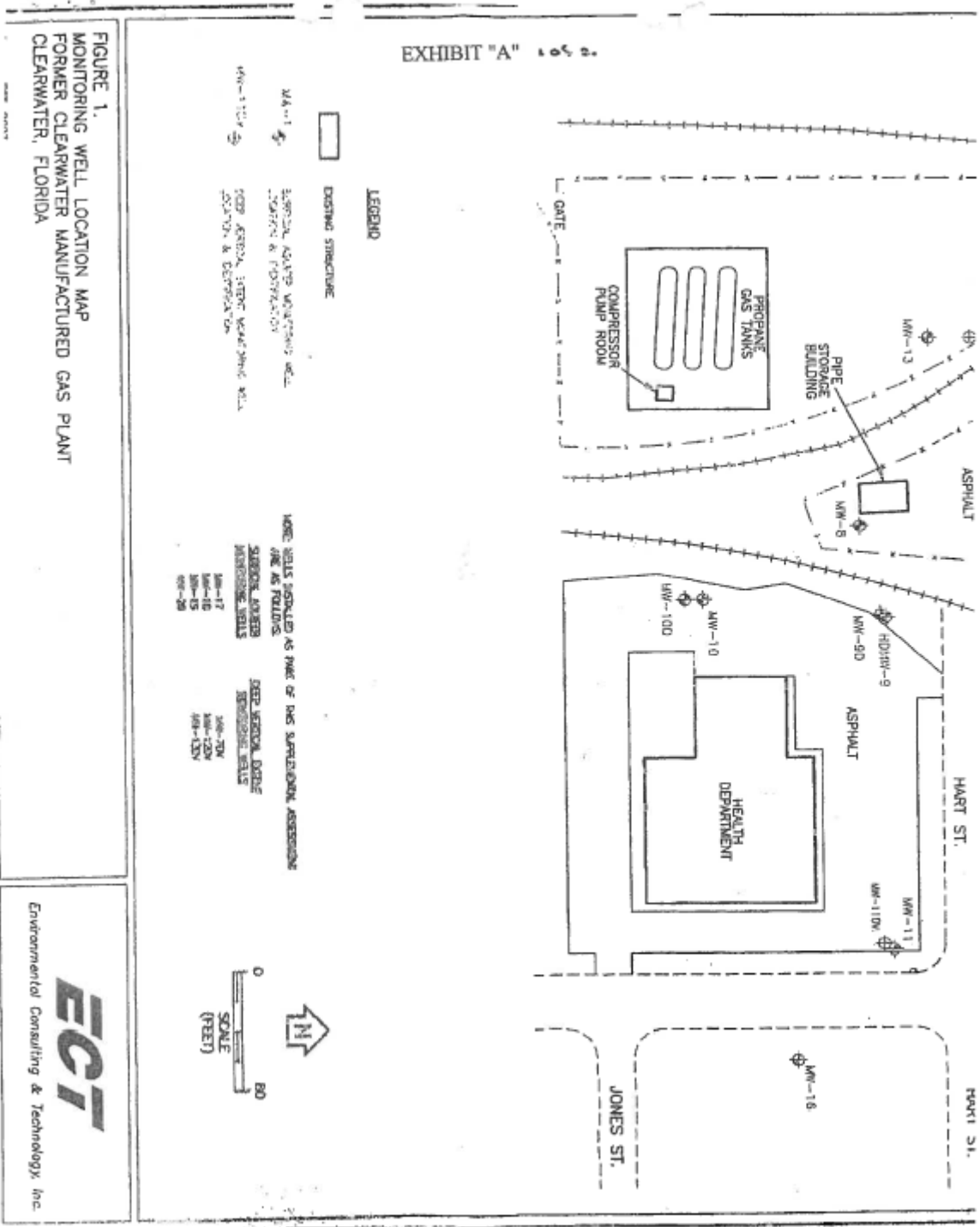
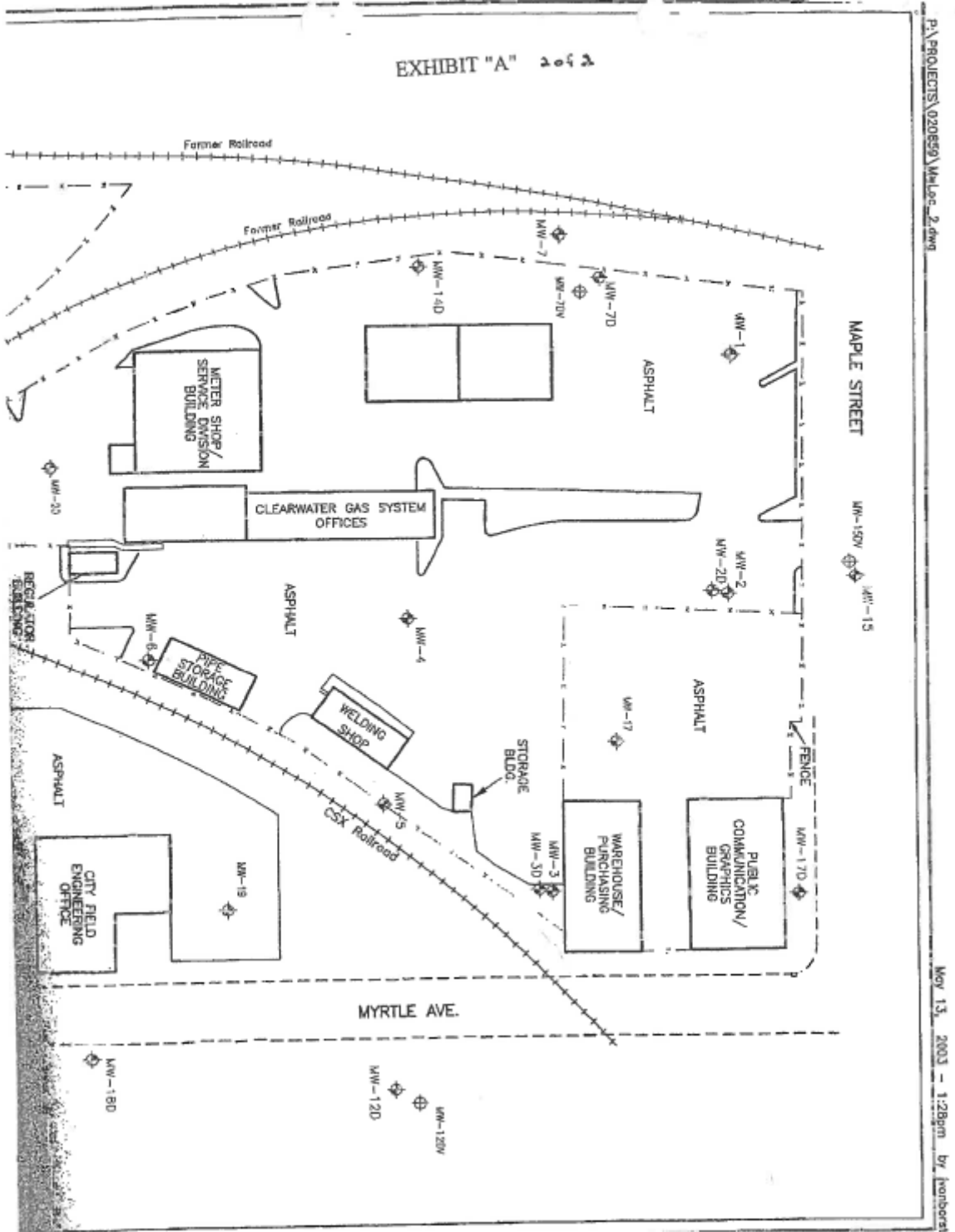


FIGURE 1.  
MONITORING WELL LOCATION MAP  
FORMER CLEARWATER MANUFACTURED GAS PLANT  
CLEARWATER, FLORIDA

Exhibit A: Licensed Area



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May 13, 2003 - 1:28pm by [unreadable]



## Exhibit B: Insurance Requirements



### CITY OF CLEARWATER

RISK MANAGEMENT, POST OFFICE BOX 4748, CLEARWATER, FLORIDA 33758-4748  
MUNICIPAL SERVICES BUILDING, 100 SOUTH MYRTLE AVENUE  
TELEPHONE (727) 562-4650 FAX (727) 562-4659

November 2, 2022

Re: City of Clearwater Self-Insurance Program 10/1/2022 – 9/30/2023

Please accept this letter as certification the City of Clearwater is insured (or self-insured) for liability and workers' compensation coverage as shown below. The City has been approved by the State of Florida as a self-insured municipal government. The state audit number for the City as a self-insured municipality is 9173. This certification is issued as a matter of information only and confers no rights upon the holder. The insurance coverages listed below do not extend the limits of liability beyond the statutory limits of \$200,000 per person/\$300,000 per occurrence as governed by the provisions of Section 768.28, Florida Statutes.

The City's major insurance coverages and limits are as follows:

1. Auto Liability, General Liability, Police Professional Liability, and Public Official Liability: Excess Insurance: \$5,000,000 (\$10,000,000 Aggregate) with Ambridge/Lloyds of London with self-insured retention of \$500,000 for the policy period 10/1/2022 – 10/1/2023.
2. Workers' Compensation: Statutory coverage per Occurrence with self-insured retention of \$600,000. Excess Insurance via Safety National for the policy period 10/1/2022 – 10/1/2023.
3. Emergency Medical Services (EMS) Commercial General Liability: Limit of \$5,000,000 per Occurrence/ \$10,000,000 Aggregate with Ambridge/Lloyd's of London with a self-insured retention of \$25,000 for the policy period 10/1/2022 – 10/1/2023.
4. Property: \$100,000,000 per occurrence for All Other Perils; \$75,000,000 per occurrence for Named Windstorm; and \$75,000,000 per occurrence/annual aggregate for Flood and Earthquake for the policy period 4/1/2022 – 4/1/2023 after either:
  - \$100,000 self-insured retention for perils other than Named Windstorm: retention shall be 5% of the value per unit of insurance for named windstorm, with a \$100,000 minimum per occurrence, and no maximum deductible.
  - Flood (SFHA): with respects to Locations wholly or partially within a Special Flood Hazard Area (SFHA), the retention shall be 5% of the value per unit of insurance, with a \$100,000 minimum per occurrence, and no maximum deductible.
  - NFIP flood limits and deductibles apply for location in SFHA (Special Flood Hazard Areas).
  - Flood (any other): \$100,000 self-insured retention for any other flood loss or damage and/or expense arising out of any one occurrence.
  - Loss Payee: Owners of property to the extent of their interest in the property being leased or rented by the City of Clearwater, per the agreement.

If you have any questions about this information, please contact me.

Sincerely,

*Edward Todd Morrone*

Edward Todd Morrone  
Risk Manager  
[edward.morrone@myclearwater.com](mailto:edward.morrone@myclearwater.com)  
727-562-4655

Mark Bunker, Councilmember  
Kathleen Beckman, Councilmember

Frank Hibbard, Mayor



David Allbritton, Councilmember  
Lina Teixeira, Councilmember

"Equal Employment and Affirmative Action Employer"