

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Payment of Water Connection Fees to City of Casselberry for capacity in excess of the original allocated gallonage.

DEPARTMENT: Environmental Services

DIVISION: Business Office

AUTHORIZED BY: Andrew Neff

CONTACT: Becky Noggle

EXT: 2143

MOTION/RECOMMENDATION:

Approve payment of water connection fees collected by the County in the amount of \$84,872.14 to the City of Casselberry for 29,947gallons per day of capacity in excess of the original allocation.

District 2 Michael McLean

Bob Briggs (ext 2148)

BACKGROUND:

For the original development of Sun Lake PUD in 1988, The City of Casselberry (City) sold capacity to Seminole County (County). A total of 80,000 gallons per day (GPD) was acquired from the City in exchange for wastewater conveyance infrastructure contributed by the County. This original capacity was intended to provide water capacity to the Sun Lake PUD. By 2008 the County had exceeded the original allocation of water capacity by 29,947gpd. Therefore payment for the exceeded capacity is required.

STAFF RECOMMENDATION:

Staff recommends the Board to approve payment of water connection fees collected by the County in the amount of \$84,872.14 to the City of Casselberry for 29,947gallons per day of capacity in excess of the original allocation.

ATTACHMENTS:

1. Request for Payment
2. Agreement
3. Agreement
4. Agreement

<p>Additionally Reviewed By:</p> <p><input type="checkbox"/> County Attorney Review</p>
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City of Casselberry

Utility Manager

95 Triplet Lake Drive, Casselberry, Florida 32707 ▪ Telephone (407) 262-7725, Ext. 1236
Fax (407) 262-7767 ▪ Email eambler@casselberry.org

September 15, 2009

Mr. Robert K. Briggs, Jr., CPA
Senior Finance Manger
Department of Environmental Services
Seminole County Government
500 West Lake Mary Boulevard
Sanford, Florida 32773-7499

SUBJECT: Sun Lake PUD – Utility Service Connection Fee Invoice

Dear Mr. Briggs:

In follow-up to conversations and correspondence regarding the Sun Lake PUD, this letter serves as invoice for the utility service Connection Fees due for the project from the City of Casselberry.

- Parke at Hanover Place – 85 units – 26,890gpd Water & 23,600gpd Sewer
 - Water Connection Fee \$76,098.70
- Sunshadow Professional Plaza Lot 2 – 1,700gpd Water & Sewer
 - Water Connection Fee \$4,811.00
- Goodwill Industries Lot 3 – 1,357gpd Water & Sewer
 - Water Connection Fee \$3,962.44

GRAND TOTAL \$84,872.14

Please pay the amount above as soon as possible. Please forward the payment to my attention at 95 Triplet Lake Drive, Casselberry, Florida 32707 to ensure receipt and processing.

Please feel free to contact me should you have any questions or concerns at 407/262-7725, extension 1236.

Sincerely,

Alan Ambler, P.E.
Utility Manager

c: Ed Torres, P.E., Public Works Director
Becky Noggle, Seminole County
Andrew Neff, P.E., Environmental Services Director
File – Sun Lake PUD – (Wholesale Agreement Invoice)

Do not file

CASSELBERRY WATER SERVICE AGREEMENT

THIS AGREEMENT is made and entered into this Eighteenth day of December _____, 1987, by and between CITY OF CASSELBERRY, a Florida Municipal Corporation whose address is 95 Lake Triplett Drive, Casselberry, Florida 32707 ("CASSELBERRY") and SEMINOLE COUNTY, a political subdivision of the State of Florida whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771 ("SEMINOLE").

W I T N E S S E T H:

WHEREAS, SEMINOLE owns and operates a potable water system located in SEMINOLE (hereinafter "SEMINOLE Water System"); and

WHEREAS, SEMINOLE wishes to connect to the CASSELBERRY Water System and purchase capacity on a wholesale basis from CASSELBERRY in order to serve the Sunlake P.U.D. Project; and

WHEREAS, CASSELBERRY owns and operates a potable water system located in unincorporated Seminole County with a capacity currently capable of serving the Sunlake P.U.D. Project.

NOW, THEREFORE, in consideration of the terms, provisions and covenants contained herein, the parties hereto do mutually agree as follows:

SECTION 1. The foregoing are true and correct.

SECTION 2. PURPOSE. Subject to the terms and conditions hereinafter set forth, CASSELBERRY shall sell and deliver to SEMINOLE; SEMINOLE shall purchase and receive from CASSELBERRY water service (hereinafter called service). It is mutually acknowledged by both parties that the intent of this Agreement is for CASSELBERRY to wholesale water to SEMINOLE and for SEMINOLE to service the Sunlake P.U.D. Project.

SECTION 3. TERM. This Agreement shall continue in effect from the complete execution and delivery hereof and thereafter for Ten (10) years with an option for extension of Five (5) years on mutual consent of the parties. If SEMINOLE exercises the option of terminating

in less than Ten years, SEMINOLE shall indicate termination by giving not less than sixty (60) days' advance written notice of the effective date of termination.

SECTION 4. PROVISION OF WATER SERVICE CAPACITY. CASSELBERRY shall provide Water Service Capacity to SEMINOLE in the following manner and subject to the following terms and conditions:

4.1 Connection to Transmission Facilities. SEMINOLE shall connect or cause to be connected, the Sunlake P.U.D. Project (hereinafter referred to as the distribution facilities) to the Transmission Facilities at the point of connection to be mutually determined and depicted on a map by SEMINOLE and CASSELBERRY. Operation, maintenance, and replacement of all pipes, fittings, valves and appurtenances including the Transmission Facilities up to the point of connection into the distribution system and the water plant providing capacity shall be the responsibility of CASSELBERRY. Operation, maintenance and replacement of the distribution facilities from the point of connection shall be the responsibility of SEMINOLE.

4.2 Metering.

(a) SEMINOLE shall furnish and install metering equipment at a point mutually agreed upon which will be capable of measuring all flow from the Transmission Facilities to the Distribution System. The metering equipment shall remain the property of SEMINOLE, and SEMINOLE shall be responsible for the operation, maintenance and replacement of the metering equipment. CASSELBERRY shall have the right to review and approve or disapprove the type of metering equipment and equipment installation. CASSELBERRY shall also have the right to read the meter at any time and the right of free access thereto for billing purposes.

(b) The metering equipment shall be of standard make and type, shall be installed at a readily accessible location, shall record flow with an error rate not exceeding plus or minus two percent (2%) of full scale reading and shall be suitable for billing purposes. In calculating any billing adjustment, it will be assumed that the

metering equipment inaccuracy existed for one-half of the entire time interval between metering equipment accuracy checks by either party. A billing adjustment shall be made at the same rate established in accordance with Section 5 hereof, but the volume used in the billing calculations shall be adjusted as described herein.

(c) SEMINOLE, at its expense, shall periodically inspect and test the master meter at intervals not exceeding twelve (12) months unless otherwise requested by CASSELBERRY.

4.3 Water Service Capacity. Both parties mutually agreed that after connection of the distribution facilities to the Transmission Facilities as provided herein, CASSELBERRY will then continuously provide, at adequate pressure and at its cost and expense, but in accordance with the other provisions of the Agreement, Water Service Capacity sufficient to meet peak average daily domestic demand plus fire flow to SEMINOLE in a manner to conform with all applicable governmental requirements. Upon connection of the distribution facilities to the Transmission Facilities, any customers that have or will connect into the distribution facilities shall be customers of SEMINOLE and shall pay SEMINOLE's rates, fees, charges and deposits for water service.

SECTION 5. PAYMENT. CASSELBERRY agrees to provide potable water for use by SEMINOLE in accordance with the terms and conditions for a charge of \$.52 per 1,000 gallons of water. CASSELBERRY agrees to bill SEMINOLE monthly based upon the number of gallons of potable water which pass through the meter each month. SEMINOLE agrees to pay for all potable water received from the Transmission Facilities at the above-mentioned rates and agrees to make payments to CASSELBERRY within thirty (30) days from the date of the CASSELBERRY's bill. Failure to do so will be considered a default by SEMINOLE and shall be processed as shown in Section 11 herein.

SECTION 6. CHANGE OF RATES. In the event CASSELBERRY, during the terms of this Agreement, shall propose any new rate schedule or amended rate schedule applicable to wholesale service furnished, CASSELBERRY shall forward to SEMINOLE a copy of such rate schedule or amended rate

schedule prior to the effective date thereof, and shall substitute such rate schedule or amended rate schedule for the rate schedule then in effect hereunder for such wholesale service, commencing with the next billing period after the effective date. In the event that SEMINOLE does not agree to the increase, the agreement will be in default and will be processed as shown in Section 11. CASSELBERRY hereby declares that said rates are not in excess of the lowest rates now available to any prospective customer under wholesale service and agrees that during the life of this Agreement, SEMINOLE shall continue to be billed at the lowest available rate for equivalent wholesale service.

SECTION 7. EASEMENT. CASSELBERRY hereby agrees to grant to Owner of Sunlake P.U.D. all necessary easements and/or utilization of rights-of-way, controlled by CASSELBERRY to construct the potable water transmission facilities to serve Sunlake P.U.D.

SECTION 8. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereon, to or for the benefit of any third party not a formal party hereto.

SECTION 9. LIABILITY. CASSELBERRY shall make all reasonable efforts to prevent interruptions of service, and when such interruptions occur, shall endeavor to reestablish service with the shortest possible delay. Whenever CASSELBERRY finds it necessary to schedule an interruption to its service, it shall take reasonable steps to notify SEMINOLE in advance and schedule such interruptions so that they will be made at such hours as will provide least inconvenience to the customer where reasonably possible.

SECTION 10. ASSIGNMENT. This Agreement shall be binding on the parties hereto and their representatives and successors. Neither party shall assign this Agreement or the rights and obligations to any other party.

SECTION 11. DEFAULT; NOTICE PROPER FORM. In the event of a default by SEMINOLE under the provisions herein, CASSELBERRY shall have the option of discontinuing service not sooner than 90 days from the time of delivery of notice to SEMINOLE. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (a) hand delivered to the official hereinafter designated, or (b) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith.

In the event of a default by CASSELBERRY under the provisions herein, SEMINOLE shall have the option of discontinuing service not sooner than 30 days from the time of delivery of notice to CASSELBERRY. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (a) hand delivered to the official hereinafter designated, or (b) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:

CASSELBERRY	Director of Utilities City of Casselberry 95 Lake Triplet Drive Casselberry, Florida 32707
SEMINOLE	Seminole County Director of Environmental Services P. O. Box 2469 Sanford, Florida 32772
Copy to:	Seminole County Attorney Seminole County Services Building 1101 East First Street Sanford, Florida 32771

SECTION 12. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

SECTION 13. TIME OF THE ESSENCE. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

SECTION 14. APPLICABLE LAW. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

SECTION 15. ENTIRE AGREEMENT: EFFECT ON PRIOR AGREEMENT. This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement on the date and year first above written.

CASSELBERRY WATER SERVICE AGREEMENT

THIS AGREEMENT is made and entered into this 14th day of January, 1998, by and between CITY OF CASSELBERRY, a Florida Municipal Corporation whose address is 95 Lake Triplet Drive, Casselberry, Florida 32707 ("CASSELBERRY") and SEMINOLE COUNTY, a political subdivision of the State of Florida whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771 ("SEMINOLE").

WITNESSETH:

WHEREAS, SEMINOLE owns and operates a potable water system located in SEMINOLE (hereinafter "SEMINOLE Water System"); and

WHEREAS, SEMINOLE wishes to connect to the CASSELBERRY Water System and purchase capacity on a wholesale basis from CASSELBERRY in order to serve the Sun Lake P.U.D. Project; and

WHEREAS, CASSELBERRY owns and operates a potable water system located in unincorporated Seminole County with a capacity currently capable of serving the Sun Lake P.U.D. Project.

NOW, THEREFORE, in consideration of the terms, provisions and covenants contained herein, the parties hereto do mutually agree as follows:

SECTION 1. The foregoing is true and correct and incorporated herein by this reference.

SECTION 2. PURPOSE. Subject to the terms and condition hereinafter set forth, CASSELBERRY shall sell and deliver to SEMINOLE; SEMINOLE shall purchase and receive from CASSELBERRY water service (hereinafter called service). Both parties mutually acknowledge that the intent of this Agreement is for CASSELBERRY to wholesale water to SEMINOLE and for SEMINOLE to provide potable water service to the Sun Lake P.U.D. Project.

SECTION 3. TERM. This Agreement shall continue in effect from the complete execution and delivery hereof and thereafter for Ten (10) years with an option for extension of Five (5) years on mutual consent of the parties. If SEMINOLE exercises the option of terminating in less than Ten years, SEMINOLE shall indicate termination by giving not less than sixty (60) days advance written notice of the effective date of termination.

SECTION 4. PROVISION OF WATER SERVICE CAPACITY. CASSELBERRY shall provide Water Service Capacity to SEMINOLE in the following manner and subject to the following terms and conditions:

4.1 Connection to Transmission Facilities. SEMINOLE has connected the Sun Lake P.U.D. Project (hereinafter referred to as the distribution facilities) to the Transmission Facilities. Operation, maintenance, and replacement of all pipes, fittings, valves and appurtenances including the Transmission Facilities up to the point of connection into the distribution system and the water plant providing capacity shall be the responsibility of CASSELBERRY. Operation, maintenance and replacement of the distribution facilities from the point of connection shall be the responsibility of SEMINOLE.

4.2 Metering.

(a) The existing metering equipment shall remain the property of SEMINOLE, and SEMINOLE shall be responsible for the operation, maintenance and replacement of the metering equipment. CASSELBERRY shall have the right to review and approve or disapprove any new metering equipment. CASSELBERRY shall also have the right to read the meter at any time and the right of free access thereto for billing purposes.

(b) The metering equipment shall be of standard make and type, shall be installed at a readily accessible location, shall record flow with an error rate not exceeding plus or minus two percent (2%) of full scale reading and shall be suitable for billing purposes. In calculating any billing adjustment, it will be assumed that the metering equipment inaccuracy existed for one-half of the entire time interval between metering equipment accuracy checks by either party. A billing adjustment shall be made at the

same rate established in accordance with Section 5 herein, but the volume used in the billing calculations shall be adjusted as described herein.

(c) SEMINOLE, at its expense, shall periodically inspect and test the master meter at intervals not exceeding twelve (12) months unless requested more frequently by CASSELBERRY.

4.3 Back-Flow Prevention.

(a) SEMINOLE shall implement a back-flow prevention program for the Sun Lake P.U.D. SEMINOLE shall furnish and install back-flow prevention equipment at a point mutually agreed upon which will be capable of preventing the reverse flow of water from the Transmission Facilities to the Distribution System. The back-flow prevention equipment shall remain the property of SEMINOLE, and SEMINOLE shall be responsible for the operation, annual maintenance and reporting the results of such annual maintenance to the City of Casselberry. CASSELBERRY shall have the right to review and approve or disapprove the type of back-flow prevention equipment and equipment installation. CASSELBERRY shall also have the right to inspect the back-flow prevention equipment and the right of free access thereto.

(b) The back-flow prevention equipment shall meet any two of the standards listed in the design standards for such devices required by the CASSELBERRY Code of Ordinances. It shall be installed at a readily accessible location, and shall routinely prevent the reverse flow of water from the Transmission Facilities to the Distribution System.

4.4 Water Conservation Plan. SEMINOLE shall develop and implement a water conservation program for the Sun Lake P.U.D. as required under Consumptive Use Permits issued by the St. Johns River Water Management District which serve this project.

4.5 Water Service capacity. CASSELBERRY agrees to continue to provide, at adequate pressure and at its cost and expense, but in accordance with the other provisions of the Agreement, water service capacity sufficient to meet peak average daily domestic demand plus fire flow to in a manner to conform with all applicable governmental requirements. Sun Lake P.U.D. customers that have or will connect into the distribution facilities shall be customers of SEMINOLE and shall pay SEMINOLE's rates, fees, charges and deposits for water service.

SECTION 5. PAYMENT. CASSELBERRY agrees to provide potable water for use by SEMINOLE in accordance with the terms and conditions herein for a charge of \$0.77 per 1,000 gallons of water. CASSELBERRY agrees to bill SEMINOLE monthly based upon the number of gallons of potable water, which pass through the meter each month. SEMINOLE agrees to pay for all potable water received from the Transmission Facilities at the above-mentioned rates and agrees to make payments to CASSELBERRY within thirty (30) days from the date of the Casselberry's bill. Failure to do so will be considered default by SEMINOLE and shall be processed as shown in Section 11 herein.

SECTION 6. CHANGE OF RATES. In the event CASSELBERRY, during the terms of this Agreement, shall propose any new rate schedule or amended rate schedule applicable to wholesale service furnished, CASSELBERRY shall forward to SEMINOLE a copy of such rate schedule or amended rate schedule prior to the effective date thereof, and shall substitute such rate schedule or amended rate schedule for the rate schedule then in effect hereunder for such wholesale service, commencing with the next billing period after the effective date. In the event that SEMINOLE does not agree to the increase, the agreement will be in default and will be processed shown in Section 11. CASSELBERRY hereby declares that said rates are not in excess of the lowest rates now available to any prospective customer under wholesale service and agrees that during the life of this Agreement, SEMINOLE shall continue to be billed at the lowest available rate for equivalent wholesale service.

SECTION 7. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereon, to or for the benefit of any third party not a formal party hereto.

SECTION 8. LIABILITY. CASSELBERRY shall make all reasonable efforts to prevent interruptions of service, and when such interruptions occur, shall endeavor to reestablish service with the shortest possible delay. Whenever CASSELBERRY finds it necessary to schedule an interruption to its

service, it shall take reasonable steps to notify SEMINOLE in advance and schedule such interruptions so that they will be made at such hours as will provide least inconvenience to the customer where reasonably possible.

SECTION 9. ASSIGNMENT. This Agreement shall be binding on the parties hereto and their representatives and successors. Neither party shall assign, sell or transfer this Agreement or the rights and obligations created herein to any other party. Additionally, should SEMINOLE assign, sell or transfer its rights to provide utilities to the Sun Lake P.U.D., SEMINOLE shall give CASSELBERRY the first right to serve utilities to the Sun Lake P.U.D.

SECTION 11. DEFAULT: NOTICE PROPER FORM. In the event of a default by SEMINOLE under the provisions herein, CASSELBERRY shall have the option of discontinuing service not sooner than 90 days from the time of delivery of notice to SEMINOLE. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (a) hand delivered to the official hereinafter designated, or (b) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith.

In the event of a default by CASSELBERRY under the provisions herein, SEMINOLE shall have the option of discontinuing service not sooner than 20 days from the time of delivery of notice to CASSELBERRY. Any notice required or allowed to be delivered when (a) hand delivered to the official hereinafter designated, or (b) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:

CASSELBERRY Director of Public Works
City of Casselberry
95 Lake Triplet Drive
Casselberry, Fl. 32707

SEMINOLE Seminole County Government
Director of Environmental Services
P.O. Box 2469
Sanford, FL 32772

Copy to: Seminole County Attorney
Seminole County Services Building
1101 East First Street
Sanford, Fl 32771

SECTION 12. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

SECTION 13. TIME OF THE ESSENCE. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

SECTION 14. APPLICABLE LAW. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

SECTION 15. ENTIRE AGREEMENT: EFFECT ON PRIOR AGREEMENT. This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions,

understandings and agreements between the parties relating to the subject matter of this Agreement. The parties in writing herein shall make amendments to and waivers of the provisions by formal amendment.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement on the date and year first above written.

ATTEST:

THE CITY OF CASSELBERRY, FLORIDA

By: Thelma McPherson
Name: Thelma McPherson
Title: City Clerk
Date: December 7, 1998

By: Bruce A. Pronovost
Name: Bruce A. Pronovost
Title: Mayor
Date: December 7, 1998

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing Acknowledgement was acknowledged before me this 7th day of December, 1998 by Thelma McPherson and Bruce Pronovost, the City Clerk and the Mayor/Commissioner of the City of Casselberry, Florida, on behalf of the City of Casselberry, Florida. They are personally known to me or ~~produced~~ _____ as identification.

NOTARY STAMP



Donna G. Gardner
MY COMMISSION # CC735108 EXPIRES
June 26, 2002
BONDED THRU TROY FAIR INSURANCE, INC.

Donna G. Gardner
NOTARY PUBLIC
Name: Donna G. Gardner
STATE OF FLORIDA, AT LARGE
Commission Number: CC735108
My Commission Expires: 6/26/02

ATTEST:

SEMINOLE COUNTY FLORIDA

By: Maryanne Morse
Name: Maryanne Morse
Title: Clerk to BCC
Date: 1-14-99

By: Carlton Henley
Name: Carlton Henley
Title: BCC Chairman
Date: 1-14-99

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing Acknowledgement was acknowledged before me this 14th day of January, 1999 by Carlton Henley and Maryanne Morse the Chairman, Board of County Commissioners and Clerk of the Court, on behalf of Seminole County. They are personally known to me or ~~produced~~ _____ as identification.

NOTARY STAMP



Gretchen R. Walker
NOTARY PUBLIC
Name: Gretchen R. Walker
STATE OF FLORIDA, AT LARGE
Commission Number: #CC728506
My Commission Expires: 6-4-02

This instrument prepared by the City of Casselberry Public Works Department, 95 Triplet Lake Drive, Casselberry, FL 32707 and reviewed by the City Attorney.

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA
BY Carlan Cohen
DEPUTY CLERK

CITY OF CASSELBERRY AND SEMINOLE COUNTY
WHOLESALE WATER SERVICE AGREEMENT

THIS AGREEMENT is made and entered into this 29 day of January, 2009, and replaces in its entirety that certain Agreement made and entered on the 14th day of January, 1999, between the CITY OF CASSELBERRY, a Florida municipal corporation, whose address is 95 Lake Triplet Drive, Casselberry, Florida 32707, hereinafter referred to as "CASSELBERRY", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY".

W I T N E S S E T H:

WHEREAS, the Sun Lake Planned Unit Development (PUD) is a residential project located in Seminole County, Florida, as depicted on Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, COUNTY owns and operates a potable water system located in unincorporated Seminole County, hereinafter referred to as "COUNTY Water System"; and

WHEREAS, CASSELBERRY owns and operates a potable water system located in unincorporated Seminole County, hereinafter referred to as "CASSELBERRY Water System", with available water adequate to serve the Sun Lake PUD; and

WHEREAS, COUNTY wishes to connect to the CASSELBERRY water system and purchase potable water capacity on a wholesale basis from CASSELBERRY in order to serve the Sun Lake (PUD); and

WHEREAS, CASSELBERRY and COUNTY entered into an Agreement on January 14, 1999, to set forth the terms and conditions for the sale by CASSELBERRY of wholesale water capacity to the COUNTY for the provision of potable water service to the residents of the Sun Lake PUD; and

WHEREAS, said Agreement shall expire pursuant to its terms on January 14, 2009; and

WHEREAS, the parties desire to replace the Agreement entered into on January 14, 1999, in its entirety so as to enable both parties to continue to enjoy the mutual benefits it provides,

NOW, THEREFORE, in consideration of the premises, mutual covenants, agreements and promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do mutually agree as follows:

SECTION 1. The foregoing is true and correct and incorporated herein by this reference.

SECTION 2. PURPOSE. Subject to the terms and conditions hereinafter set forth, CASSELBERRY shall sell and deliver to COUNTY and COUNTY shall purchase and receive from CASSELBERRY wholesale potable water service capacity, hereinafter referred to as Water Service Capacity. The parties mutually acknowledge that the intent of this Agreement is for CASSELBERRY to provide wholesale water service capacity to COUNTY and for COUNTY to provide potable water service to residents of the Sun Lake PUD.

SECTION 3. DEFINITIONS. The parties agree that in constructing this Agreement, the following words, phrases and terms shall have the following meanings unless the context clearly indicates otherwise:

(a) "Agreement" means this City of Casselberry and Seminole County Wholesale Water Service Agreement as it may from time to time be modified.

(b) "Distribution System" means those lines, pipes, meters and all other appurtenant equipment and facilities owned by COUNTY and used to distribute potable water from the point of connection to individual customers and property owners.

(c) "GPD" means gallons per day, average annual basis.

(d) "Production and Transmission Facilities" means those lines, pumps, meters and other appurtenant equipment and facilities used by CASSELBERRY to transmit water from the point of production to the COUNTY's point of connection.

(e) "Water Connection Fees" means those fees and charges established and collected by CASSELBERRY to pay for water service capacity sold hereunder.

(f) "Water Service Capacity" means the amount of water flow measured in GPD which the COUNTY wishes to purchase from CASSELBERRY and which CASSELBERRY agrees to sell and allocate from the CASSELBERRY water system in accordance with this Agreement.

SECTION 4. TERM. This Agreement shall continue in effect for fifteen (15) years from the date of execution hereof by the parties. This Agreement shall automatically renew for successive periods of five (5) years each, unless COUNTY or CASSELBERRY provides advance

written notice to the other party of its intention to terminate this Agreement, which notice must be given not less than one (1) year prior to the automatic date of renewal.

SECTION 5. PROVISION OF WATER SERVICE CAPACITY. CASSELBERRY shall provide Water Service Capacity to COUNTY in the following manner and subject to the following terms and conditions:

(a) Water Service Capacity.

(1) CASSELBERRY shall provide, at adequate pressure and in accordance with the other provisions of the Agreement, Water Service Capacity sufficient to meet peak average daily domestic demand plus fire flow in a manner conforming with all applicable governmental requirements; provided, however, CASSELBERRY's obligation shall be consistent with and not greater than CASSELBERRY's obligation to provide Water Service Capacity to the public generally. Sun Laké PUD customers that connect into the COUNTY's Distribution System shall be customers of COUNTY and pay COUNTY's rates, fees, charges and deposits for potable water service.

(2) The parties acknowledge that COUNTY has estimated current Water Service Capacity needs of 80,000 GPD from CASSELBERRY's water system. CASSELBERRY's obligation to provide the COUNTY's future needs of 28,000 GPD of Water Service Capacity shall be contingent upon COUNTY's payment to CASSELBERRY of applicable Water Connection Fees upon receipt by CASSELBERRY of a clearance letter from the Florida Department of Environmental Protection for said capacity, or any portion thereof, during this Agreement. If Water Connection Fees are not paid by COUNTY, all rights and obligations to the Water Service

Capacity purchase of 28,000 GPD under this Agreement shall be terminated to the extent that such Water Service Capacity has not been purchased by COUNTY.

(3) COUNTY agrees to provide to CASSELBERRY, on or before October 1, 2009, and annually thereafter, a three (3) year projection of its Water Service Capacity needs. CASSELBERRY agrees to provide COUNTY an option to reserve and purchase additional capacity by payment of applicable Water Connection Fees; provided, however, that COUNTY notifies CASSELBERRY at least two (2) years prior to the date that such additional capacity is needed. Any capacity not purchased by COUNTY on or before the termination of this Agreement shall be available for other CASSELBERRY users.

(b) Connection. COUNTY has connected the Sun Lake PUD, hereinafter referred to as the Distribution System, to CASSELBERRY's Transmission Facilities, as depicted on Exhibit "B", attached hereto and incorporated herein. Operation, maintenance and replacement of all pipes, fittings, valves and appurtenances, including the Transmission Facilities up to the point of connection into the Distribution System and the water plant providing capacity shall be the responsibility of CASSELBERRY. Operation, maintenance and replacement of all pipes, fittings, valves and appurtenances in the COUNTY's Distribution System from the point of connection to the Sun Lake PUD shall be the responsibility of COUNTY.

(c) Metering.

(1) The existing metering equipment shall remain the property of COUNTY and COUNTY shall be responsible for its continued

operation, maintenance and replacement. CASSELBERRY shall have the right to review and approve or disapprove any new metering equipment. CASSELBERRY shall also have the right to read the meter at reasonable times and the right of free access thereto for reading and billing purposes.

(2) Metering equipment shall be of standard make and type, installed at a readily accessible location, record flow with an error rate not exceeding plus or minus two percent ($\pm 2\%$), of full scale reading and suitable for billing purposes. In calculating any billing adjustment, it will be assumed that the metering equipment inaccuracy existed for one-half ($1/2$) of the entire time interval between metering equipment accuracy checks by either party. A billing adjustment shall be made at the same rate established in accordance with Section 7 herein, but the volume used in the billing calculations shall be adjusted as described herein.

(3) COUNTY, at its expense, shall periodically inspect and test the master meter at intervals not exceeding twelve (12) months unless requested more frequently by CASSELBERRY. Written results of any meter inspections shall be provided by COUNTY to CASSELBERRY within ten (10) days of such inspections.

(d) Back-flow Prevention.

(1) COUNTY shall implement a back-flow prevention program for the Sun Lake PUD. COUNTY shall furnish and install back-flow prevention equipment at a mutually agreed upon connection point capable of preventing the reverse flow of water from the Transmission Facilities to the Distribution System, as depicted on Exhibit "B". The

back-flow prevention equipment shall remain the property of COUNTY and COUNTY shall be responsible for its operation, annual maintenance and reporting the results of such annual maintenance to CASSELBERRY. CASSELBERRY shall have the right to review and approve or disapprove the type of back-flow prevention equipment and equipment installation. CASSELBERRY shall also have the right to inspect the back-flow prevention equipment at reasonable times.

(2) The back-flow prevention equipment shall meet any two (2) of the standards listed in the design standards for such devices as required by CASSELBERRY. The back-flow prevention equipment shall be installed at a readily accessible location and routinely prevent the reverse flow of water from the Transmission Facilities to the Distribution System.

(e) Water Conservation Plan. COUNTY shall develop and implement a water conservation program for the Sun Lake PUD as required by the Consumptive Use Permit serving this project issued by the St. Johns River Water Management District.

SECTION 6. WATER CONNECTION FEES. As to the Water Service Capacity provided by CASSELBERRY to COUNTY, COUNTY shall pay CASSELBERRY Water connection Fees at the CASSELBERRY rate in effect at the time Water Connection Fees are paid to CASSELBERRY. COUNTY shall pay Water Connection Fees to CASSELBERRY upon execution of FDEP permits for additional capacity or any portion thereof. COUNTY shall be solely responsible for the collection of the Water Connection Fees for each unit to be served; failure to collect the Water Connection

Fees shall not relieve COUNTY from its obligation to pay CASSELBERRY for the Water Connection Fees as agreed herein.

SECTION 7. WHOLESALE WATER USER CHARGES.

(a) CASSELBERRY agrees to provide Water Service Capacity for use by COUNTY in accordance with the terms and conditions set forth herein at the current established wholesale service rate currently adopted by CASSELBERRY.

(b) CASSELBERRY agrees to bill COUNTY monthly based upon the number of gallons of potable water which pass through the COUNTY's master meter each month. CASSELBERRY agrees to provide COUNTY with a billing summary for the master meter service account within ten (10) days of the billing date. The billing summary for the master metered service account shall include the meter reading for the prior month, the current meter reading and the total gallons billed for the master meter. COUNTY agrees to pay for potable water received from the Transmission Facilities at the rate described hereinabove and agrees to make payment to CASSELBERRY within forty-five (45) days from the date of CASSELBERRY's bill. Failure to remit payment to CASSELBERRY as required herein will be considered a default by COUNTY and CASSELBERRY may proceed as set forth in Section 12 herein.

SECTION 8. CHANGE OF RATES. In the event CASSELBERRY, during this Agreement, shall propose a new rate schedule or amended rate schedule applicable to wholesale water service, CASSELBERRY shall forward to COUNTY a copy of such rate schedule or amended rate schedule prior to the effective date thereof, and shall substitute such rate schedule or amended rate schedule for the rate schedule then

in effect hereunder for such wholesale water service, commencing with the next billing period after the effective date. CASSELBERRY hereby declares that said rates are not in excess of the lowest rates now available to any prospective customer under wholesale potable water service and agrees that, during the Agreement, COUNTY shall continue to be billed at the lowest available rate for equivalent wholesale potable water service.

SECTION 9. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue upon or by reason hereof to or for the benefit of any third party not a formal party hereto.

SECTION 10. SERVICE INTERRUPTIONS. CASSELBERRY shall make all reasonable efforts to prevent interruption of service, and when such interruption occurs, shall endeavor to reestablish service with the shortest possible delay. Whenever CASSELBERRY finds it necessary to schedule an interruption to its service, it shall take reasonable steps to notify COUNTY in advance and schedule such interruption so as to be made on such days and at such times as will provide the least inconvenience to the customer where reasonably possible.

SECTION 11. ASSIGNMENT. This Agreement shall be binding on the parties hereto and their representatives and successors. Neither party shall assign, sell, or transfer this Agreement or the rights and obligations created herein to any other party without the written consent of the other party hereto.

SECTION 12. DEFAULT.

(a) Either party to this Agreement, in the event of or act of default by the other, shall have all remedies available to it under the laws of the State of Florida, including, but not limited to, injunction to prevent default, or specific performance to enforce this Agreement, subject to State law.

(b) In the event of a default by COUNTY, CASSELBERRY agrees that it shall not discontinue service to COUNTY provided all payments for service required hereunder are made by COUNTY and until such time as a court of competent jurisdiction has rendered an adjudication of default. In the event COUNTY disputes the amount payable for service pursuant to this Agreement, COUNTY shall continue to make such payments but may make such payments under protest.

(c) In the event of default by CASSELBERRY, COUNTY shall be entitled to any and all remedies available to customers of the CASSELBERRY water system. Each of the parties hereto shall give the other party written notice of any defaults hereunder; allow the defaulting party thirty (30) days from the date of receipt to cure such defaults and otherwise comply with any State law to resolve disputes between local governments.

SECTION 13. FORCE MAJEURE. In the event any party hereunder fails to satisfy in a timely manner any requirements in this Agreement due to a hurricane, flood, tornado, or other act of God or force majeure, then said party shall not be in default hereunder; provided, however, that performance shall recommence upon such event ceasing its effect.

SECTION 14. PUBLIC RECORDS LAW. Each party shall allow public access of all documents, papers, letters, or other material which have been made or received in conjunction with this Agreement in accordance with Chapter 119, Florida Statutes.

SECTION 15. CONFLICT OF INTEREST.

(a) The parties agree that they will not engage in any action that would create a conflict of interest in the performance of their obligations pursuant to this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

(b) The parties hereby certify that no officer, agent or employee has any material interest (as defined in Section 112.312(15), Florida Statutes, as over 5%) either directly or indirectly, in the business of the party to be conducted hereunder, and that no such person shall have any such interest at any time during the term of this Agreement.

(c) Pursuant to Section 216.347, Florida Statutes, the parties hereby agree that monies received from the other party pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any State or Federal agency.

SECTION 16. NOTICES. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when hand delivered to the official hereinafter designated or upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below, or at such other address

as the party shall have specified by written notice to the other party delivered in accordance herewith:

For CASSELBERRY: Director of Public Works
City of Casselberry
95 Triplet Lake Drive
Casselberry, FL 32707

For COUNTY: Seminole County
Seminole County Services Building
1101 East First Street
Sanford, FL 32771

SECTION 17. SEVERABILITY. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

SECTION 18. TIME OF THE ESSENCE. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

SECTION 19. HEADINGS. All sections and descriptive headings in this Agreement are inserted for convenience only and shall not affect the construction of interpretation hereof.

SECTION 20. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, the parties shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the acts contemplated to be performed herein, including those in effect and hereafter adopted. Any material violation of said statutes, ordinances, rules and regulations shall constitute a

material breach of this Agreement and shall entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

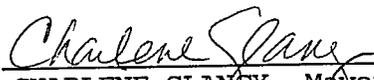
SECTION 21. GOVERNING LAW. This Agreement shall be governed by and construed, controlled and interpreted in accordance with the laws of the State of Florida and the parties consent to venue in the Circuit Court in and for Seminole County, Florida as to State actions and the United States District Court for the Middle District of Florida as to Federal actions.

SECTION 22. ENTIRE AGREEMENT: EFFECT ON PRIOR AGREEMENT. This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement. The parties shall make amendments to and waivers of the provisions herein by formal amendment hereto.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement on the date and year first above written.

CITY OF CASSELBERRY


DONNA G. GARDNER, City Clerk

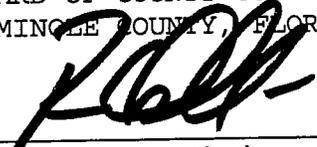
BY: 
CHARLENE GLANCY, Mayor

Date: 1/12/09

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

ATTEST:

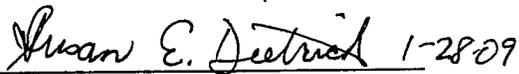

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: 
BOB DALLARI, Chairman

Date: 1/29/09

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

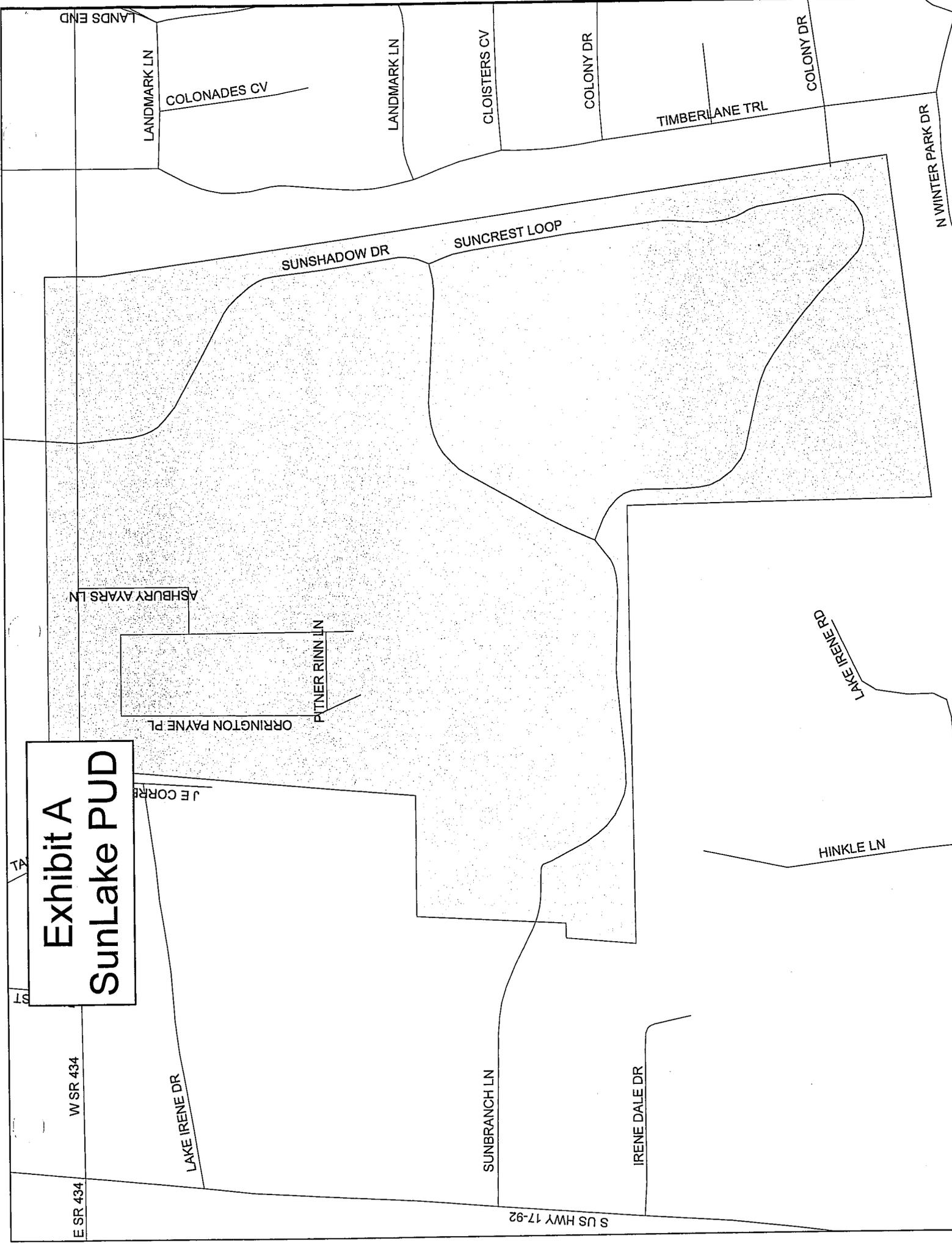
As authorized for execution
by the Board of County Commissioners
at their 27 Jan., 2009
regular meeting.


County Attorney
SED/lpk
11/14/08 12/11/08
P:\Users\lkennedy\My Documents\Environmental Services\Casselberry water agt.docx

Attachments:

- Exhibit "A" - Sun Lake PUD Water System
- Exhibit "B" - Map of Connection Point

Exhibit A
SunLake PUD



LANDS END

LANDMARK LN

COLONADES CV

LANDMARK LN

CLOISTERS CV

COLONY DR

TIMBERLANE TRL

COLONY DR

N WINTER PARK DR

SUNSHADOW DR

SUNCREST LOOP

ASHBURY AYARS LN

ORRINGTON PAYNE PL

PITNER RINN LN

JE CORP

LAKE IRENE RD

HINKLE LN

W SR 434

LAKE IRENE DR

SUNBRANCH LN

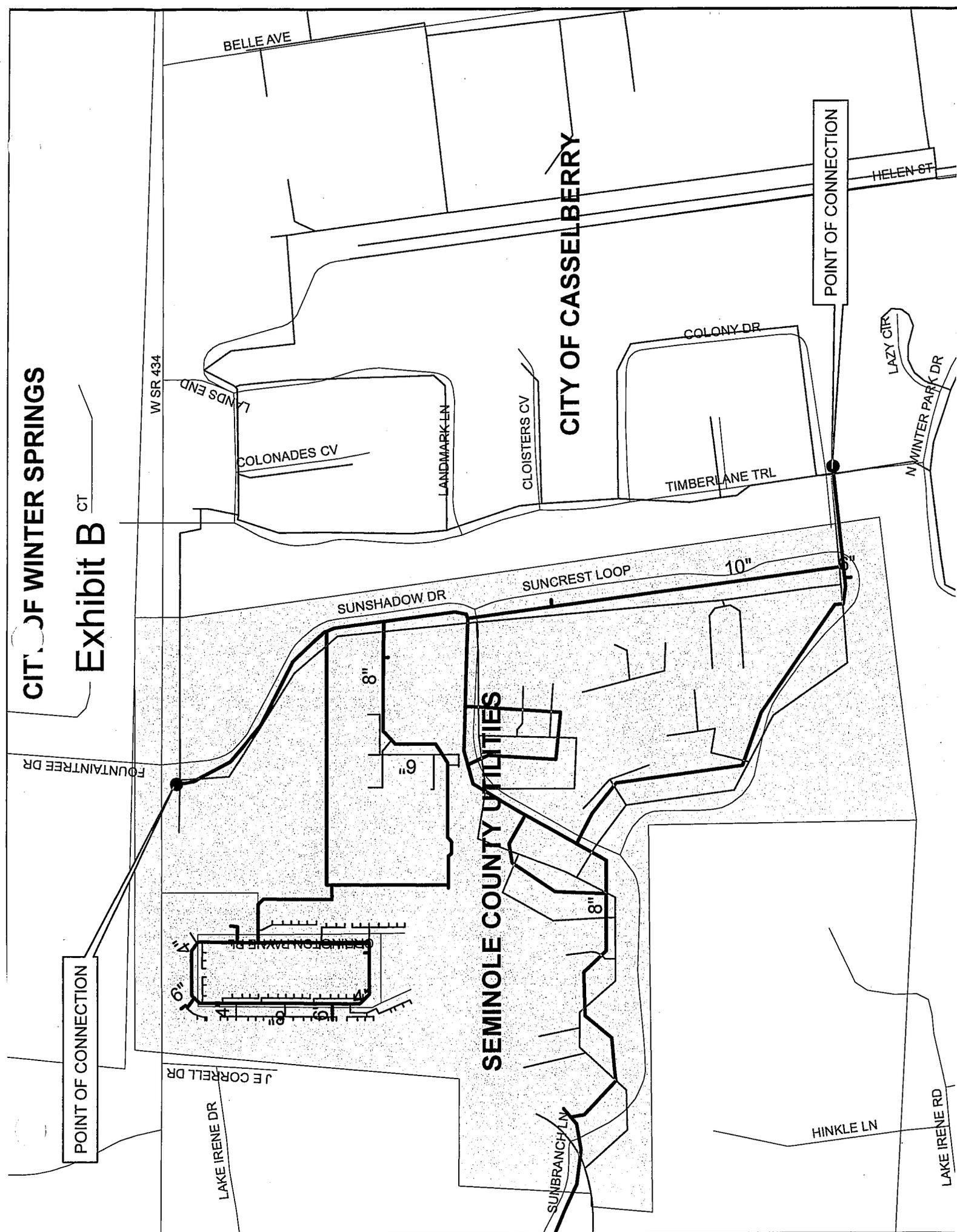
IRENE DALE DR

E SR 434

S US HWY 17-92

CITY OF WINTER SPRINGS

Exhibit B



COPY

RESOLUTION 09-1999

“A RESOLUTION OF THE CITY OF CASSELBERRY, FLORIDA, AUTHORIZING THE EXECUTION OF THE WATER SERVICE INTERLOCAL AGREEMENT WITH SEMINOLE COUNTY TO PROVIDE WATER SERVICE TO THE SUNSHADOW DEVELOPMENT; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.”

WHEREAS, the City of Casselberry has provided water service to Seminole County for the Sunshadow Development via a previous Water Service Agreement; and

WHEREAS, said agreement will be expiring on January 14, 2009; and

WHEREAS, provisions have been made in the new agreement for collecting water connection fees, estimating current and future water consumption demand, periodic meter testing, and a water conservation plan; and

WHEREAS, Seminole County will be charged the City’s current wholesale water rates; and

WHEREAS, such rates shall be amended based on future rate studies; and

WHEREAS, Seminole County and City staff have agreed to the language set forth in the agreement; and

WHEREAS, the terms of the agreement will be for a period of 15 years with an option to extend for an additional five years; and

WHEREAS, Public Works staff have reviewed the Water Service Interlocal Agreement with Seminole County and find it is favorable to meet the needs of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA, AS FOLLOWS:

SECTION I. The City Commission of the City of Casselberry hereby approves the execution of the Water Service Interlocal Agreement with Seminole County to provide water service to the Sunshadow Development, attached as “Exhibit A”, and authorizes the Mayor to execute said document on behalf of the City.

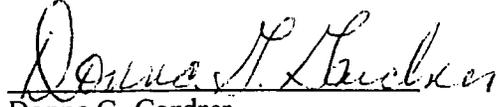
SECTION II. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION III. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

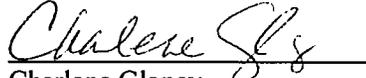
SECTION IV. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED and ADOPTED this 12th day of January, AD 2009.

ATTEST:



Donna G. Gardner
City Clerk



Charlene Glancy
Mayor/Commissioner



S. US 27

S. 100th St

PVC CLUSTERS CV

AURORA CTR

COLONY DR

N. WINTER PARK DR

S. 101st St

GLASSBORO BLVD

WILD WINDS BLVD

S. 102nd St

S. 103rd St

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