



FRANK RIDDICK - District 5
Chairman

MIKE SUAREZ - District 1 At-Large

CHARUT MIRANDA - District 2 At-Large

LUIS VIERA - District 7
Chair Pro-Tem

HARRY COHEN - District 4

GUIDO MANISCALCO - District 6


YVONNE VUE CAPIN - District 3 At-Large

City Council

MEMORANDUM

February 8, 2019

To: Commissioner Sandra Murman, Chairman, Tampa Bay Water Board of Directors
Matt Jordan, General Manager
Barrie Buenaventura, General Counsel

From: Councilman Charlie Miranda, City of Tampa 

Subject: Request to add documents for consideration under Agenda Item H1 on Agenda
Tampa Bay Water Board meeting, February 18, 2019

I am requesting that the attached documents be added to the upcoming Tampa Bay Water Board agenda item H1 for consideration. As indicated in the discussion for this item in the agenda notebook, attorneys for the members have worked collegially and diligently, as directed by the members of the Board, to address six issues of concern raised by the Members regarding the TAP Agreement and Memorandum of Understanding. These issues and the responses from the member attorneys are included in the packet in the document titled "Revised Issue Outline (2/5 version #5) based on Direction by Executive Committee (January 28, 2019).

The documents I am submitting for consideration are: 1) a "red-line" document created by the City staff which is the Agreement considered by the Board at the December Board meeting with the clauses inserted from the Revised Issues Outline referenced above that have been indicated to either be supported or not objected to by the attorneys for the members as well as some minor revisions requested by Tampa Bay Water; and 2) a "clean" version of the "red-line" document.

These are offered so that Tampa Bay Water, all members, their attorneys and staff would have an opportunity to consider the documents prior to the Board meeting. Please have these distributed to all members and appropriate staff as soon as possible.

AGREEMENT AND MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT AND MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "Agreement") is entered into to be effective as of the _____ day of _____, 20__, by and between the CITY OF TAMPA, hereinafter referred to as "TAMPA" and TAMPA BAY WATER, a regional water supply authority, hereinafter referred to as the "TAMPA BAY WATER."

WHEREAS, the Amended and Restated Interlocal Agreement of 1998, (the "ILA"), created TAMPA BAY WATER as the wholesale provider of potable water for its members and further provides that TAMPA's historical use of surface water constitutes a special circumstance justifying the exception to the exclusivity clause contained in the ILA; and

WHEREAS, Section 3.08 (A) of the ILA authorizes TAMPA to seek additional water from the Hillsborough River for use by TAMPA for supply and to meet regulatory requirements, after certain conditions have occurred, and that any obligation that TAMPA BAY WATER has to meet TAMPA's need for water pursuant to the ILA shall be reduced by the amount of water that is derived from TAMPA's use of surface water sources; and

WHEREAS, TAMPA has proposed an alternative water source utilizing its advanced treated reclaimed water to be used in an aquifer recharge and recovery project with the benefits as described on Exhibit A for TAMPA BAY WATER, to benefit the needs of the region, and to sustain TAMPA's use of the Hillsborough River Reservoir; and

WHEREAS, the Member Governments retained the exclusive right to develop, own, and operate all facilities for reclaimed water as provided in Section 3.09 of the ILA; and

WHEREAS, at the direction of the TAMPA BAY WATER Board of Directors, an ad hoc committee was established to consider projects using reclaimed water of the members (the "Reclaimed Committee") and the Reclaimed Committee commissioned utilities consultant Raftelis to review and analyze the Tampa Augmentation Project as defined and described in the attached Exhibit A attached hereto and by reference made a part hereof ("TAP") to determine if the members of TAMPA BAY WATER would benefit from TAP, and has determined that TAP benefits the region as contemplated by the ILA; and

WHEREAS, TAMPA BAY WATER intends to include TAP in the Master Water Plan as an exclusive source for TAMPA alleviating TAMPA BAY WATER from needing to plan, budget or supply TAMPA water in accordance with the terms of this Agreement; and

WHEREAS, the implementation of TAP will not result in any adverse impact to TAMPA BAY WATER's operations or current and projected financial status; and

WHEREAS, neither this Agreement nor the implementation of TAP allows TAMPA to sell any potable water to any other Member Government except as already allowed under the ILA; and

WHEREAS, TAMPA BAY WATER and TAMPA agree that it is in the best interests of TAMPA BAY WATER and all of its members for TAMPA to pursue TAP to sustain its use of the Hillsborough River and Sulphur Springs by using its reclaimed water in a manner that will also provide benefits to TAMPA BAY WATER members and the regional system in a manner consistent with the provisions of the ILA as set forth in this Agreement.

1

NOW THEREFORE, in consideration of the mutual covenants and considerations herein contained, the parties hereto do agree to the following:

1. TAMPA and TAMPA BAY WATER acknowledge and agree that the TAP recovery wells identified on Exhibit B attached hereto and by reference made a part hereof as incorporated or in substantially similar form and content, hereinafter referred to as "TAP Recovery Wells," are being constructed by TAMPA for the purposes of providing water for the exclusive use of TAMPA and its retail customers and for purposes of providing other regional benefits consistent with the ILA.
2. TAMPA and TAMPA BAY WATER acknowledge and agree that the benefits provided by TAP, including the function of the TAP Recovery Wells are regional in nature, and are being or will be constructed at the expense of TAMPA and not TAMPA BAY WATER.
3. TAMPA and TAMPA BAY WATER acknowledge the exceptions to the Exclusivity clause in § 3.08 of the ILA allow TAMPA to develop TAP for its exclusive use and benefit, and consistent with the provisions of this Agreement, and TAMPA BAY WATER does hereby assign any and all of its interest in the TAP Recovery Wells, including the function of the TAP Recovery Wells, that are or may be created by the terms of the ILA to TAMPA for and in exchange of the regional benefits of TAP, the acquisition option by TAMPA BAY WATER, hereinafter provided, and SEVEN MILLION DOLLARS (\$7,000,000) to be contributed by TAMPA to the rate stabilization fund. An initial payment of TWO MILLION THREE HUNDRED THIRTY THREE THOUSAND, THREE HUNDRED THIRTY THREE DOLLARS AND THIRTY FOUR CENTS (\$2,333,333.34) shall be made one year after the

execution date of this Agreement. Two additional payments of TWO MILLION THREE HUNDRED THIRTY THREE THOUSAND, THREE HUNDRED THIRTY THREE DOLLARS AND THIRTY THREE CENTS (\$2,333,333.33) shall be made on the same date each year thereafter in 2020 and 2021. In addition, should TAMPA BAY WATER and TAMPA agree that the Recovery Wells will be acquired by TAMPA BAY WATER, the SEVEN MILLION DOLLARS (\$7,000,000) previously paid to TAMPA BAY WATER for the assignment of rights will be paid to TAMPA in addition to the purchase price to be determined in accordance with paragraph 5.

4. That for and in consideration of the irrevocable assignment and exclusive use herein acknowledged by TAMPA as well as an option of acquisition provided by TAMPA to TAMPA BAY WATER to purchase the TAP Recovery Wells under the terms and conditions as indicated below, TAMPA hereby waives its rights under and acknowledges that TAMPA BAY WATER has met the terms of S. 3.03 and S. 3.08 except for S.3.08(B) of the ILA, and hereby releases TAMPA BAY WATER from any obligation to provide, plan, or budget for the delivery of water for TAMPA upon TAP being fully functioning or December 31, 2027 whichever occurs first.

“Fully Functioning” for the purposes of this Agreement shall mean TAP will be able to produce the maximum quantity allocated to be withdrawn from the TAP Recovery Wells as authorized by the water use permit in accordance with the terms and conditions therein which shall occur no later than December 31, 2027. Tampa Bay Water intends to select a project to meet south Hillsborough County demand in or around April 2020. In order for Tampa Bay Water to plan to meet regional demand, by no later than December 31, 2022, Tampa shall notify inform

Tampa Bay Water in writing of a date certain no later than December 31, 2027, by which TAP will be fully functioning. TAMPA BAY WATER shall continue to provide, plan and budget for the delivery of water to TAMPA until, but not beyond, the date certain identified in TAMPA's notification to TAMPA BAY WATER when TAP will be fully functioning.

If TAP is not fully functioning by the date certain, no later than December 31, 2027, identified by TAMPA or if the configuration of Tampa's service area or projected population increases by more than 30% beyond the current Tampa Bay Water projection for 2040, Tampa shall immediately inform Tampa Bay Water in writing if, and to what extent, it may require the delivery of water from Tampa Bay Water. The parties will determine a mutually agreeable date by which Tampa Bay Water will resume supplying Tampa provided, however, that such date must allow Tampa Bay Water time to plan and develop new supplies, if necessary, in order to maintain the relationship between the quantity of Quality Water actually delivered by Tampa Bay Water to the Member Governments and the aggregate permitted capacity of Tampa Bay Water production facilities below the threshold identified in Section 3.03(C)(1) of the ILA. Further, the Parties acknowledge and agree that if TAMPA does not notify TAMPA BAY WATER by December 31, 2022 of a date certain no later than December 31, 2027 when TAP will be fully functioning, this AGREEMENT is null and void and of no further force or effect.

5. The parties acknowledge and agree that TAMPA BAY WATER shall have an option to acquire the TAP Recovery Wells at a mutually agreeable date pursuant to the following terms and conditions:

a. For purposes of determining the acquisition price for the TAP Recovery Wells infrastructure the Parties shall mutually agree to use the valuation provisions in either Section 3.02 (A) or 3.06 (A) of the ILA.

b. The acquisition of the TAP Recovery Wells shall be further subject to the simultaneous execution of an operation and maintenance agreement mutually agreeable to the parties to assure the continued operation and maintenance of the recovery wells as an integral part of TAP together with appropriate access to the TAP Recovery Wells for such purposes.

6. Tampa commits to providing TEN MILLION (10,000,000) gallons per day (GPD) of reclaimed water from its Howard F. Curren Advanced Wastewater Treatment Plant in the manner described in Exhibit A and under such terms and conditions, including but not limited to cost of construction and the reclaimed water, to be agreed upon between Tampa and the Hillsborough County (COUNTY) to be utilized for the COUNTY'S SHARP/SHARE project for the benefit of Tampa Bay Water, if the project is pursued by Tampa Bay Water as the project to assist in meeting regional demand for the benefit of Tampa Bay Water and its members. This quantity of reclaimed water can be available upon the execution of such agreement between Tampa and the County and the construction of facilities to provide the reclaimed water.

7. The Parties agree and affirm that this Agreement is consistent with and does not modify or amend the ILA or Master Water Supply Contract, and this Agreement is not intended in any way to alter the Parties' rights or obligations thereunder, nor

shall any member be estopped by the provisions herein from exercising their rights in the ILA. To the extent any provision herein is determined to conflict with a provision in the ILA or the Master Water Supply Contract, the provision in the ILA or the Master Water Supply Contract shall control. Unless otherwise defined herein, all defined terms shall have the same meaning as in the ILA.

8. The Parties agree and affirm that no changes are required in state law to implement this Agreement, and neither Party will seek legislative changes that affects Tampa Bay Water in a manner set forth in Section 6.04 of the ILA.

9. No later than June 30, 2020, Tampa Bay Water may, in its sole discretion, by Board resolution requiring the same vote as this Agreement, cancel this Agreement upon the determination that the benefits to be provided by TAP to Tampa Bay Water and its members as indicated in Paragraph 2 herein and the Exhibit attached hereto, will not accrue to Tampa Bay Water and its members. However, if Tampa Bay Water does not choose to pursue SHARP, including the 10 MGD of reclaimed water offered by Tampa to Hillsborough County for SHARP for Tampa Bay Water's benefit, that decision shall not be determined to be the basis of reduced benefits to Tampa Bay Water. Upon cancellation, the Agreement shall then be of no force or effect and neither Tampa Bay Water nor Tampa shall have any further obligations or rights pursuant to the Agreement. Any payment made by Tampa to Tampa Bay Water in accordance with paragraph 3 shall be refunded to TAMPA within THIRTY (30) days of the cancellation of this Agreement.

10. It is estimated that TAP could provide a total reduction of nutrient loading to Hillsborough Bay of 1954 lbs. of nutrients per day. However, based on operational protocols, it is estimated that TAP will provide a reduction of approximately 1758 lbs. per day of nutrients to Hillsborough Bay. Tampa will not directly or indirectly transfer or reallocate or facilitate the transfer or reallocation of any nutrient credits that may be created by the reduction of nutrients per day to Hillsborough Bay to third parties nor will it reallocate any of the estimated 1758 lbs. per day of nutrients to TAMPA's Stormwater department permitted discharge allocation.

11. Any water developed by TAP will be utilized by TAMPA for TAMPA'S stated purposes of drought-proofing its current authorized permitted quantities, assist in compliance with minimum flows of the Lower Hillsborough River and to supply TAMPA'S projected demands. If any excess potable water should be available, TAMPA shall comply with the provisions of the Inter-Local Agreement including not providing water to any new customers outside of TAMPA'S service area or within the service areas of other members within the Tampa Bay Water service area except for Hillsborough County through current interconnections in areas in Hillsborough County adjoining the City of Tampa service area. Tampa Bay Water must approve any potential additional interconnections. Tampa shall not sell or provide any potable water to any third parties or entities outside of Tampa Bay Water's service area.

12. If TAMPA applies for cooperative funding for the TAP project, it will identify the projected maximum total cost directly related to the project on its application, but such maximum amount shall not exceed three hundred and fifty million dollars

(\$350,000,000). Tampa will only seek cooperative funding from SWFWMD for TAP based on the maximum project cost. If project costs increase above that amount, TAMPA will not seek additional funding from SWFWMD for the increase.

13. Upon TAP being determined to be fully functioning, Tampa will relinquish its authorization to use water pursuant to the Southwest Florida Water Management District (SWFWMD) Use Permit No. 20 006675.006. All quantities of water authorized for Tampa's use under the terms and conditions of the permit would be available for use by Tampa Bay Water as authorized by SWFWMD. Tampa will not permit any water developed by TAP to directly or indirectly enter the Harney Canal or the Tampa Bypass Canal.

14. Tampa will be purchasing water from Tampa Bay Water as needed and pursuant to the Interlocal Agreement through December 31, 2027 contributing to the current debt service of Tampa Bay Water. The construction and operation of TAP by TAMPA is estimated to provide \$34.7 million dollars of net present value savings to the members of Tampa Bay Water through the year 2038. The Parties agree to evaluate the actual cost savings to Tampa Bay Water members and report to the members no later than December 31, 2028 and determine what if any further contributions to the debt service as of the date of this Agreement TAMPA should provide. The Parties will jointly secure the services of a financial advisor to provide an updated analysis as the basis of the report to the members.

15. Tampa shall provide an annual report to Tampa Bay Water on the progress of the TAP implementation beginning on the first year following the execution of this Agreement until TAP is fully functioning.

DONE AND EXECUTED to be effective on the date and year written above.

ATTEST:

CITY OF TAMPA, FLORIDA

By: _____
City Clerk/Deputy City Clerk

By: _____
Bob Buckhorn, Mayor

Approved as to Legal Sufficiency:

By: _____
Janice M. McLean,
Senior Assistant City Attorney

ATTEST:

TAMPA BAY WATER, A REGIONAL
WATER SUPPLY AUTHORITY

Matt Jordan, Secretary

By: _____
Sandra Murman, Chairman

Date: _____

(SEAL)

APPROVED AS TO FORM:

General Counsel

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day
of _____, 20____, by Sandra Murman, as Chairman for Tampa Bay Water,
A Regional Water Supply Authority.

Notary Public

Print Name

My Commission Expires:

Personally known _____ OR

Type of Identification Produced _____

AGREEMENT AND MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT AND MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "Agreement") is entered into to be effective as of the _____ day of _____, 20__, by and between the CITY OF TAMPA, hereinafter referred to as "TAMPA" and TAMPA BAY WATER, a regional water supply authority, hereinafter referred to as the "TAMPA BAY WATER."

WHEREAS, the Amended and Restated Interlocal Agreement of 1998, (the "ILA"), created TAMPA BAY WATER as the wholesale provider of potable water for its members and further provides that TAMPA's historical use of surface water constitutes a special circumstance justifying the exception to the exclusivity clause contained in the ILA; and

WHEREAS, Section 3.08 (A) of the ILA authorizes TAMPA to seek additional water from the Hillsborough River for use by TAMPA for supply and to meet regulatory requirements, after certain conditions have occurred, and that any obligation that TAMPA BAY WATER has to meet TAMPA's need for water pursuant to the ILA shall be reduced by the amount of water that is derived from TAMPA's use of surface water sources; and

WHEREAS, TAMPA has proposed an alternative water source utilizing its advanced treated reclaimed water to be used in an aquifer recharge and recovery project with the benefits as described on Exhibit A for TAMPA BAY WATER, to benefit the needs of the region, and to sustain TAMPA's use of the Hillsborough River Reservoir; and

WHEREAS, the Member Governments retained the exclusive right to develop, own, and operate all facilities for reclaimed water as provided in Section 3.09 of the ILA; and

WHEREAS, at the direction of the TAMPA BAY WATER Board of Directors, an ad hoc committee was established to consider projects using reclaimed water of the members (the "Reclaimed Committee") and the Reclaimed Committee commissioned utilities consultant Raftelis to review and analyze the Tampa Augmentation Project as defined and described in the attached Exhibit A attached hereto and by reference made a part hereof ("TAP") to determine if the members of TAMPA BAY WATER would benefit from TAP, and has determined that TAP benefits the region as contemplated by the ILA; and

WHEREAS, TAMPA BAY WATER intends to include TAP in the Master Water Plan as an exclusive source for TAMPA alleviating TAMPA BAY WATER from needing to plan, budget or supply TAMPA water in accordance with the terms of this Agreement; and

WHEREAS, the implementation of TAP will not result in any adverse impact to TAMPA BAY WATER's operations or current and projected financial status; and

WHEREAS, neither this Agreement nor the implementation of TAP allows TAMPA to sell any potable water to any other Member Government except as already allowed under the ILA; and

WHEREAS, TAMPA BAY WATER and TAMPA agree that it is in the best interests of TAMPA BAY WATER and all of its members for TAMPA to pursue TAP to sustain its use of the Hillsborough River and Sulphur Springs by using its reclaimed water in a manner that will also provide benefits to TAMPA BAY WATER members and the regional system in a manner consistent with the provisions of the ILA as set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and considerations herein contained, the parties hereto do agree to the following:

1. TAMPA and TAMPA BAY WATER acknowledge and agree that the TAP recovery wells identified on Exhibit B attached hereto and by reference made a part hereof as incorporated or in substantially similar form and content, hereinafter referred to as "TAP Recovery Wells," are being constructed by TAMPA for the purposes of providing water for the exclusive use of TAMPA and its retail customers and for purposes of providing other regional benefits consistent with the ILA.
2. TAMPA and TAMPA BAY WATER acknowledge and agree that the benefits provided by TAP, including the function of the TAP Recovery Wells are regional in nature, and are being or will be constructed at the expense of TAMPA and not TAMPA BAY WATER.
3. TAMPA and TAMPA BAY WATER acknowledge the exceptions to the Exclusivity clause in § 3.08 of the ILA allow TAMPA to develop TAP for its exclusive use and benefit, and consistent with the provisions of this Agreement, and TAMPA BAY WATER does hereby assign any and all of its interest in the TAP Recovery Wells, including the function of the TAP Recovery Wells, that are or may be created by the terms of the ILA to TAMPA for and in exchange of the regional benefits of TAP, the acquisition option by TAMPA BAY WATER, hereinafter provided, and SEVEN MILLION DOLLARS (\$7,000,000) to be contributed by TAMPA to the rate stabilization fund. An initial payment of TWO MILLION THREE HUNDRED THIRTY THREE THOUSAND, THREE HUNDRED THIRTY THREE DOLLARS AND THIRTY FOUR CENTS (\$2,333,333.34) shall be made one year after the

execution date of this Agreement. Two additional payments of TWO MILLION THREE HUNDRED THIRTY THREE THOUSAND, THREE HUNDRED THIRTY THREE DOLLARS AND THIRTY THREE CENTS (\$2,333,333.33) shall be made on the same date each year thereafter in 2020 and 2021. In addition, should TAMPA BAY WATER and TAMPA agree that the Recovery Wells will be acquired by TAMPA BAY WATER, the SEVEN MILLION DOLLARS (\$7,000,000) previously paid to TAMPA BAY WATER for the assignment of rights will be paid to TAMPA in addition to the purchase price to be determined in accordance with paragraph 5.

4. That for and in consideration of the irrevocable assignment and exclusive use herein acknowledged by TAMPA as well as an option of acquisition provided by TAMPA to TAMPA BAY WATER to purchase the TAP Recovery Wells under the terms and conditions as indicated below, TAMPA hereby waives its rights under and acknowledges that TAMPA BAY WATER has met the terms of S. 3.03 and S. 3.08 except for S.3.08(B) of the ILA, and hereby releases TAMPA BAY WATER from any obligation to provide, plan, or budget for the delivery of water for TAMPA upon TAP being fully functioning or December 31, 2027 whichever occurs first. "Fully Functioning" for the purposes of this Agreement shall mean TAP will be able to produce the maximum quantity allocated to be withdrawn from the TAP Recovery Wells as authorized by the water use permit in accordance with the terms and conditions therein which shall occur no later than December 31, 2027. TAMPA BAY WATER intends to select a project to meet south Hillsborough County demand in or around April 2020. In order for TAMPA BAY WATER to plan to meet regional demand, by no later than December 31, 2022, TAMPA shall notify

TAMPA BAY WATER in writing of a date certain no later than December 31, 2027, by which TAP will be fully functioning. TAMPA BAY WATER shall continue to provide, plan and budget for the delivery of water to TAMPA until, but not beyond, the date certain identified in TAMPA's notification to TAMPA BAY WATER when TAP will be fully functioning. If TAP is not fully functioning by the date certain, no later than December 31, 2027 identified by TAMPA or if the configuration of TAMPA'S service area or projected population increases by more than 30% beyond the current TAMPA BAY WATER projection for 2040, TAMPA shall immediately inform TAMPA BAY WATER, in writing if, and to what extent, it may require the delivery of water from TAMPA BAY WATER. The Parties will determine a mutually agreeable date by which TAMPA BAY WATER will resume supplying TAMPA provided, however, that such date must allow TAMPA BAY WATER time to plan and develop new supplies, if necessary, in order to maintain the relationship between the quantity of Quality Water actually delivered by TAMPA BAY WATER to the Member Governments and the aggregate permitted capacity of TAMPA BAY WATER production facilities below the threshold identified in Section 3.03(C)(1) of the ILA. Further, the Parties acknowledge and agree that if TAMPA does not notify TAMPA BAY WATER by December 31, 2022 of a date certain no later than December 31, 2027 when TAP will be fully functioning, this AGREEMENT is null and void and of no further force or effect.

5. The parties acknowledge and agree that TAMPA BAY WATER shall have an option to acquire the TAP Recovery Wells at a mutually agreeable date pursuant to the following terms and conditions:

a. For purposes of determining the acquisition price for the TAP Recovery Wells infrastructure the Parties shall mutually agree to use the valuation provisions in either Section 3.02 (A) or 3.06 (A) of the ILA.

b. The acquisition of the TAP Recovery Wells shall be further subject to the simultaneous execution of an operation and maintenance agreement mutually agreeable to the Parties to assure the continued operation and maintenance of the recovery wells as an integral part of TAP together with appropriate access to the TAP Recovery Wells for such purposes.

6. TAMPA commits to providing TEN MILLION (10,000,000) gallons per day (GPD) of reclaimed water from its Howard F. Curren Advanced Wastewater Treatment Plant in the manner described in Exhibit A and under such terms and conditions, including but not limited to cost of construction and the reclaimed water, to be agreed upon between TAMPA and the Hillsborough County (COUNTY) to be utilized for the COUNTY'S SHARP/SHARE project for the benefit of TAMPA BAY WATER, if the project is pursued by TAMPA BAY WATER as the project to assist in meeting regional demand for the benefit of TAMPA BAY WATER and its members. This quantity of reclaimed water can be available upon the execution of such agreement between TAMPA and the COUNTY and the construction of facilities to provide the reclaimed water.

7. The PARTIES agree and affirm that this Agreement is consistent with and does not modify or amend the ILA or Master Water Supply Contract, and this Agreement is not intended in any way to alter the Parties' rights or obligations thereunder, nor

shall any member be estopped by the provisions herein from exercising their rights in the ILA. To the extent any provision herein is determined to conflict with a provision in the ILA or the Master Water Supply Contract, the provision in the ILA or the Master Water Supply Contract shall control. Unless otherwise defined herein, all defined terms shall have the same meaning as in the ILA.

8. The Parties agree and affirm that no changes are required in state law to implement this Agreement, and neither Party will seek legislative changes that affects Tampa Bay Water in a manner set forth in Section 6.04 of the ILA.

9. No later than June 30, 2020, TAMPA BAY WATER may, in its sole discretion, by Board resolution requiring the same vote as this Agreement, cancel this Agreement upon the determination that the benefits to be provided by TAP to Tampa Bay Water and its members as indicated in Paragraph 2 herein and the Exhibit attached hereto, will not accrue to Tampa Bay Water and its members. However, if TAMPA BAY WATER does not choose to pursue SHARP, including the 10 MGD of reclaimed water offered by TAMPA to Hillsborough County for SHARP for TAMPA BAY WATER'S benefit, that decision shall not be determined to be the basis of reduced benefits to TAMPA BAY WATER. Upon cancellation, the Agreement shall then be of no force or effect and neither Tampa Bay Water nor Tampa shall have any further obligations or rights pursuant to the Agreement. Any payment made by TAMPA to TAMPA BAY WATER in accordance with paragraph 3 shall be refunded to TAMPA within THIRTY (30) days of the cancellation of this Agreement.

10. It is estimated that TAP could provide a total reduction of nutrient loading to Hillsborough Bay of 1954 lbs. of nutrients per day. However, based on operational protocols, it is estimated that TAP will provide a reduction of approximately 1758 lbs. per day of nutrients to Hillsborough Bay. TAMPA will not directly or indirectly transfer or reallocate or facilitate the transfer or reallocation of any nutrient credits that may be created by the reduction of nutrients per day to Hillsborough Bay to third parties nor will it reallocate any of the estimated 1758 lbs. per day of nutrients to TAMPA's Stormwater department permitted discharge allocation.

11. Any water developed by TAP will be utilized by TAMPA for TAMPA'S stated purposes of drought-proofing its current authorized permitted quantities, assist in compliance with minimum flows of the Lower Hillsborough River and to supply TAMPA'S projected demands. If any excess potable water should be available, TAMPA shall comply with the provisions of the ILA including not providing water to any new customers outside of TAMPA'S service area or within the service areas of other members within the TAMPA BAY WATER service area except for Hillsborough County through current interconnections in areas in Hillsborough County adjoining the City of TAMPA service area. TAMPA BAY WATER must approve any potential additional interconnections. TAMPA shall not sell or provide any potable water to any third parties or entities outside of TAMPA BAY WATER's service area.

12. If TAMPA applies for cooperative funding for the TAP project, it will identify the projected maximum total cost directly related to the project on its application, but such maximum amount shall not exceed THREE HUNDRED AND FIFTY MILLION

DOLLARS (\$350,000,000). TAMPA will only seek cooperative funding from the Southwest Florida Water Management District (SWFWMD) for TAP based on the maximum project cost. If project costs increase above that amount, TAMPA will not seek additional funding from SWFWMD for the increase.

13. Upon TAP being determined to be fully functioning, TAMPA will relinquish its authorization to use water pursuant to the SWFWMD Water Use Permit No. 20 006675.006. All quantities of water authorized for TAMPA'S use under the terms and conditions of the permit would be available for use by TAMPA BAY WATER as authorized by SWFWMD. TAMPA will not permit any water developed by TAP to directly or indirectly enter the Harney Canal or the Tampa Bypass Canal.

14. TAMPA will be purchasing water from TAMPA BAY WATER as needed and pursuant to the ILA through December 31, 2027 contributing to the current debt service of TAMPA BAY WATER. The construction and operation of TAP by TAMPA is estimated to provide \$34.7 million dollars of net present value savings to the members of TAMPA BAY WATER through the year 2038. The Parties agree to evaluate the actual cost savings to TAMPA BAY WATER members and report to the members no later than December 31, 2028 and determine what if any further contributions to the debt service as of the date of this Agreement TAMPA should provide. The Parties will jointly secure the services of a financial advisor to provide an updated analysis as the basis of the report to the members.

15. TAMPA shall provide an annual report to TAMPA BAY WATER on the progress of the TAP implementation beginning on the first year following the execution of this Agreement until TAP is fully functioning.

DONE AND EXECUTED to be effective on the date and year written above.

ATTEST:

CITY OF TAMPA, FLORIDA

By: _____
City Clerk/Deputy City Clerk

By: _____
Bob Buckhorn, Mayor

Approved as to Legal Sufficiency:

By: _____
Janice M. McLean,
Senior Assistant City Attorney

ATTEST:

TAMPA BAY WATER, A REGIONAL
WATER SUPPLY AUTHORITY

Matt Jordan, Secretary

By: _____
Sandra Murman, Chairman

Date: _____

(SEAL)

APPROVED AS TO FORM:

General Counsel

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day
of _____, 20____, by Sandra Murman, as Chairman for Tampa Bay Water,
A Regional Water Supply Authority.

Notary Public

Print Name

My Commission Expires:

Personally known _____OR

Type of Identification Produced _____