

ORDINANCE NO. 7515-05

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA; ESTABLISHING THE CLEARWATER CAY COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING A TITLE; PROVIDING FINDINGS; CREATING AND NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; CONSENTING TO THE USE OF SPECIAL POWERS BY THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, DC703, LLC ("Petitioner"), as owner of or with consent of the owners of one hundred percent (100%) of the real property to be included in the District, has consented to the establishment of and petitioned the City Council of the City of Clearwater (the "City") to adopt an ordinance establishing the Clearwater Cay Community Development District (the "District") pursuant to Chapter 190, Florida Statutes; and

WHEREAS, Petitioner is a Florida limited liability company authorized to conduct business in the State of Florida and whose principal place of business is 2704 Via Murano, Clearwater, Florida 33764; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the City on September 1, 2005; and

WHEREAS, upon consideration of the record established at that hearing duly noticed, the City finds as follows:

- (1) The statements within the Petition were true and correct; and
- (2) Establishment of the District by this Ordinance is subject to and not inconsistent with the local Comprehensive Plan of the City and with the State Comprehensive Plan; and,
- (3) The area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional, interrelated community; and
- (4) The District is the best alternative available for delivering community development services and facilities to the area proposed to be serviced by the District; and

(5) The services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

(6) The area to be served by the District is amenable to separate special district governance; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the Petition; and

WHEREAS, the Petitioner has requested the City for consent to exercise one or more of the special powers granted by charter in Section 190.012(2), Florida Statutes;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

Section 1. Title. This Ordinance shall be known and may be cited as the "Clearwater Cay Community Development District Establishment Ordinance."

Section 2. Council Findings. The Council findings set forth in the recitals to this Ordinance are hereby incorporated in this Ordinance.

Section 3. Authority. This Ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (2005).

Section 4. Creation of District; District Name. There is hereby created a community development district situated entirely within the incorporated boundaries of the City of Clearwater, Florida, which District shall be known as the "Clearwater Cay Community Development District."

Section 5. External Boundaries of the District. Encompassing approximately 49.37 acres, the external boundaries of the District are described in Exhibit "A" attached hereto.

Section 6. Functions and Powers. The District is limited to the performance of those powers and functions as described in Chapter 190, Florida Statutes. Consent is also hereby given, as provided in Section 190.012(2), Florida Statutes (2005), to the District Board so long as it is in compliance with and subject to the City of Clearwater Comprehensive Plan and subject to the regulatory jurisdiction and permitting authority of all applicable other ordinances and regulations of the City, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, including related buildings and equipment, school buildings and related structures, security, including but not limited to personnel and equipment, mosquito and anthropods of public health

importance control, and waste collection and disposal. In the exercise of its powers, the District shall comply with all applicable governmental laws, rules, regulations and policies including, but not limited to, all City ordinances and policies governing land planning and permitting of the development to be served by the District. The District shall not have any zoning or permitting powers governing land development or the use of land. No debt or obligation of the District shall constitute a burden on any local general purpose government.

Section 7. Board of Supervisors. The five persons designated to serve as initial members of the District's Board of Supervisors are as follows: Darcy Edwards, 2724 Via Murano, Unit 620, Clearwater, FL 33764; Gary Schwarz, 2722 Via Tivoli, Unit 416A, Clearwater, FL 33764; David Schwarz, 2722 Via Tivoli, Unit 416A, Clearwater, FL 33764; Cristal Coleman, 2749 Via Cipriani, Unit 1015B, Clearwater, FL 33764; Fred Clark, Sr., 2709 Via Cipriani, Unit 521A, Clearwater, FL 33764.

All of the above-listed persons are residents of the state of Florida and citizens of the United States of America.

Section 8. Severability. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 9. Effective Date. This Ordinance shall be effective immediately upon receipt of acknowledgement that a copy of this Ordinance has been filed with the Secretary of State.

PASSED ON FIRST READING

September 1, 2005

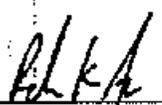
PASSED ON SECOND AND FINAL
READING AND ADOPTED

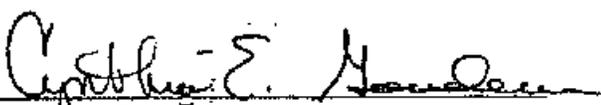
September 15, 2005


Frank Hibbard
Mayor-Commissioner

Approved as to form:

Attest:


Pamela K. Akin
City Attorney


Cynthia E. Goudeau
City Clerk

CLEARWATER COMMUNITY DEVELOPMENT DISTRICT

A parcel of land in Sections 20 and 29, Township 29 South, Range 16 East, Pinellas County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Section 20; thence along the South line of said Section 20, $S89^{\circ}19'48''E$, a distance of 100.01 feet to the East right of way line of U.S. Highway 19 and the POINT OF BEGINNING; thence $N01^{\circ}26'21''E$, along said East right of way line, a distance of 350.00 feet; thence $S89^{\circ}19'48''E$, parallel with said South line of Section 20, a distance of 175.00 feet to the Southeast corner of property conveyed in Official Records Book 13955, Page 418 of the Public Records of Pinellas County, Florida; thence $N01^{\circ}26'21''E$, along the East line of said property, a distance of 200.00 feet to the Northeast corner of said property; thence $N89^{\circ}19'48''W$, along the North line of said property, a distance of 175.00 feet to said East right of way line of U.S. Highway 19; thence $N01^{\circ}26'21''E$, along said East right of way line, a distance of 73.79 feet to the Southwest corner of property conveyed in Official Records Book 13618, Page 304 of the Public Records of Pinellas County, Florida; thence $S89^{\circ}19'48''E$, along the South line of said property, a distance of 210.24 feet to the Southeast corner of said property; thence $N01^{\circ}26'21''E$, along the East line of said property, a distance of 179.82 feet to the Northeast corner of said property; thence $N89^{\circ}19'48''W$, along the North line of said property, a distance of 210.24 feet to said East right of way line of U.S. Highway 19; thence $N01^{\circ}26'21''E$, along said East right of way line, a distance of 361.95 feet; thence $S89^{\circ}26'50''E$, a distance of 885.00 feet; thence $S01^{\circ}26'21''W$, a distance of 572.00 feet; thence $N89^{\circ}19'48''W$, a distance of 263.00 feet; thence $S01^{\circ}26'21''W$, a distance of 246.00 feet; thence $N89^{\circ}19'48''W$, a distance of 12.00 feet; thence $S01^{\circ}26'21''W$, a distance of 349.37 feet to said South line of Section 20 and the North line of said Section 29; thence $S89^{\circ}19'48''E$, along said South line and North line, a distance of 11.39 feet to Northeast corner of property conveyed in Official Records Book 10769, Page 1415 of the Public Records of Pinellas County, Florida; thence $S00^{\circ}27'22''E$, for 43.51 feet to the Northwest corner of property conveyed in Official Records Book 13805, Page 313 of the Public Records of Pinellas County, Florida, said corner also being a point of intersection with a non-tangent curve concave to the South; thence Easterly along the arc of said curve with a radial bearing $S00^{\circ}27'51''E$, and having a radius of 35.00 feet, a central angle of $14^{\circ}51'42''$, an arc length of 9.08 feet and a chord bearing $S83^{\circ}02'00''E$, for 9.05 feet to the point of reverse curvature with a curve concave to the North; thence Easterly along the arc of said curve, having a radius of 35.00 feet, a central angle of $13^{\circ}43'39''$,



an arc length of 8.39 feet and a chord bearing $S82^{\circ}27'58''E$, for 8.37 feet to the point of tangency; thence $S89^{\circ}19'48''E$, for 111.84 feet to the point of intersection with a non-tangent curve concave to the Northwest; thence Easterly along the arc of said curve with a radial bearing $N00^{\circ}40'13''E$, and having a radius of 55.50 feet, a central angle of $118^{\circ}44'08''$, an arc length of 115.01 feet and a chord bearing $N31^{\circ}18'08''E$, for 95.51 feet to the point of intersection with a non-tangent curve concave to the Northeast; thence Southeasterly along the arc of said curve with a radial bearing $N61^{\circ}56'04''E$, and having a radius of 15.00 feet, a central angle of $46^{\circ}10'01''$, an arc length of 12.09 feet and a chord bearing $S51^{\circ}08'57''E$, for 11.76 feet to the point of compound curvature with a curve concave to the North; thence Easterly along the arc of said curve, having a radius of 125.00 feet, a central angle of $56^{\circ}40'40''$, an arc length of 123.65 feet and a chord bearing $N77^{\circ}25'43''E$, for 118.67 feet to the point of reverse curvature with a curve concave to the Southeast; thence Northeasterly along the arc of said curve, having a radius of 303.00 feet, a central angle of $00^{\circ}31'45''$, an arc length of 2.80 feet and a chord bearing $N49^{\circ}21'15''E$, for 2.80 feet to the point of intersection with a non-tangent line; thence $N40^{\circ}22'52''W$, for 14.84 feet to the point of intersection with a non-tangent curve concave to the Northwest; thence Northeasterly along the arc of said curve with a radial bearing $N40^{\circ}43'39''W$, and having a radius of 74.87 feet, a central angle of $02^{\circ}40'04''$, an arc length of 3.49 feet and a chord bearing $N47^{\circ}56'19''E$, for 3.49 feet to the point of reverse curvature with a curve concave to the Southeast; thence Northeasterly along the arc of said curve, having a radius of 234.00 feet, a central angle of $34^{\circ}19'10''$, an arc length of 140.16 feet and a chord bearing $N63^{\circ}45'52''E$, for 138.08 feet to the point of tangency; thence $N80^{\circ}55'27''E$, for 97.25 feet; thence $N56^{\circ}01'58''E$, for 40.45 feet; thence $N78^{\circ}50'41''E$, for 127.14 feet; thence $S78^{\circ}23'09''E$, for 24.44 feet; thence $S11^{\circ}52'40''E$, for 9.10 feet; thence $N79^{\circ}23'05''E$, for 49.80 feet; thence $N10^{\circ}51'19''W$, for 10.82 feet; thence $N42^{\circ}27'28''E$, for 66.63 feet; thence $N35^{\circ}48'02''E$, for 134.85 feet; thence East, for 67.34 feet; thence $S38^{\circ}08'04''E$, for 12.67 feet; thence East, for 68.14 feet; thence $N54^{\circ}10'51''E$, for 17.03 feet; thence East, for 96.27 feet; thence $N55^{\circ}05'18''E$, for 63.64 feet; thence East, for 25.42 feet to the point of curvature of a curve concave to the North; thence Easterly along the arc of said curve, having a radius of 64.00 feet, a central angle of $39^{\circ}42'28''$, an arc length of 44.35 feet and a chord bearing $N70^{\circ}08'46''E$, for 43.47 feet to the point of reverse curvature with a curve concave to the South; thence Northeasterly along the arc of said curve, having a radius of 58.00 feet, a central angle of $36^{\circ}55'37''$, an arc length of 37.38 feet and a chord bearing $N68^{\circ}45'21''E$, for 36.74 feet to the point of reverse curvature with a curve concave to the Northwest; thence Easterly along the arc of said curve, having a radius of

54.00 feet, a central angle of $87^{\circ}13'09''$, an arc length of 82.20 feet and a chord bearing $N43^{\circ}36'34''E$, for 74.49 feet to the point of tangency; thence North, for 189.83 feet; thence $S89^{\circ}19'09''E$, for 779.97 feet; thence $S60^{\circ}00'00''W$, for 1333.52 feet; thence $S89^{\circ}19'48''E$, for 209.91 feet; thence $S24^{\circ}54'45''W$, for 343.41 feet to the point of intersection with a non-tangent curve concave to the Southeast; thence Southwesterly along the arc of said curve with a radial bearing $S52^{\circ}36'11''E$, and having a radius of 1577.45 feet, a central angle of $13^{\circ}22'27''$, an arc length of 368.22 feet and a chord bearing $S30^{\circ}42'35''W$, for 367.38 feet to the point of intersection with a non-tangent line; thence $N89^{\circ}04'26''W$, for 829.18 feet to the Southeast corner of property conveyed in Official Records Book 10769, Page 1415 of the Public Records of Pinellas County, Florida; thence $N89^{\circ}21'00''W$, along the South line of said property, a distance of 635.75 feet to said East right of way line of U.S. Highway 19; thence $N00^{\circ}51'16''E$, along said East right of way line, 627.67 feet to the said POINT OF BEGINNING;

LESS AND EXCEPT the South 5.00 feet of the East 610.00 feet of the West 710.00 feet of said Section 20, Township 29 South, Range 16 East, Pinellas County, Florida;

LESS AND EXCEPT the following described parcel:

A parcel of land lying in the Southwest 1/4 of the Southwest 1/4 of Section 20, Township 29 South, Range 16 East, Pinellas County, Florida, per Official Records Book 9527, Page 480, Public Records of Pinellas County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Section 20 and run South $89^{\circ}19'48''$ East, 100.00 feet to the East right-of-way line of U.S. Highway 19; thence North $01^{\circ}26'21''$ East along said East right-of-way line, 5.00 feet to the POINT OF BEGINNING; thence continue North $01^{\circ}26'21''$ East, along said East right-of-way line, 345.00 feet; thence South $89^{\circ}19'48''$ East, 252.55 feet; thence South $01^{\circ}26'21''$ West, 345.00 feet; thence North $89^{\circ}19'48''$ West, 252.55 feet to the POINT OF BEGINNING.

Overall property containing 49.369 acres, more or less.

TOGETHER WITH and SUBJECT TO an easement for ingress, egress, drainage and utilities created by documents recorded in Official Records Book 10958, Page 299, Official Records Book 12557, Page 2644, and Official Records Book 10784, Page 1247 of the Public Records of Pinellas County Florida, over the following described parcel:

A tract of land lying in Sections 20 and 29, Township 29 South, Range 16 East, Pinellas County, Florida, being further described as follows:

Commence at the Southwest corner of said Section 20; thence S89°19'48"E, along the South line of said Section 20 and the North line of said Section 29, a distance of 100.01 feet to the East right of way line of U.S. Highway 19 and the POINT OF BEGINNING; thence N01°26'21"E, along said East right of way line, a distance of 5.00 feet; thence S89°19'48"E, parallel with said South line of Section 20, a distance of 610.00 feet; thence S01°26'21"W, a distance of 5.00 feet to the North line of said Section 29; thence S89°19'48"E, along said North line, a distance of 5.89 feet to a point of intersection with a non-tangent curve concave to the Northwest; thence Northeasterly along the arc of said curve with a radial bearing N35°13'11"W, and having a radius of 35.00 feet, a central angle of 30° 38' 59", an arc length of 18.72 feet and a chord bearing N39°27'06"E, for 18.50 feet to the point of reverse curvature with a curve concave to the Southeast; thence Northeasterly along the arc of said curve, having a radius of 45.00 feet, a central angle of 66° 32' 19" an arc length of 52.26 feet and a chord bearing N57°24'02"E, for 49.37 feet to the point of tangency; thence S89°19'48"E, for 15.64 feet to the point of curvature of a curve concave to the North; thence Easterly along the arc of said curve, having a radius of 50.00 feet, a central angle of 39° 25' 12", an arc length of 34.40 feet and a chord bearing N70°57'37"E, for 33.73 feet to the point of a reverse curve concave to the West; thence Southeasterly along the arc of said curve, having a radius of 55.50 feet, a central angle of 219° 25' 12", an arc length of 212.54 feet and a chord bearing S19°02'23"E, for 104.50 feet to the point of tangency; thence N89°19'48"W, for 111.84 feet to the point of curvature of a curve concave to the North; thence Westerly along the arc of said curve, having a radius of 35.00 feet, a central angle of 13° 43' 39", an arc length of 8.39 feet and a chord bearing NB2°27'58"W, for 8.37 feet to the point of reverse curvature with a curve concave to the South; thence Westerly along the arc of said curve, having a radius of 35.00 feet, a central angle of 14° 51' 42", an arc length of 9.08 feet and a chord bearing NB3°02'00"W, for 9.05 feet to a point of intersection with a non-tangent line; thence S00°27'22"E, for 6.50 feet; thence N89°19'48"W, parallel with said North line, a distance of 382.87 feet; thence S76°44'53"W, a distance of 57.73 feet; thence S87°33'00"W, a distance of 57.06 feet; thence N89°19'48"W, parallel with said North line, a distance of 126.71 feet to said East right of way line of U.S. Highway 19; thence N00°51'16"E, along said East

right of way line, a distance of 67.00 feet to the POINT OF
BEGINNING.