

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Assignment of Customer Agreement for Reclaimed Water Rates

DEPARTMENT: Environmental Services **DIVISION:** Business Office

AUTHORIZED BY: [Signature] **CONTACT:** [Signature] **EXT.** 2143
David Gregory, Acting Director Becky Noggle, Sr. Coordinator

Agenda Date <u>5/10/05</u>	Regular <input type="checkbox"/>	Consent <input checked="" type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>		Public Hearing – 7:00 <input type="checkbox"/>	

MOTION/RECOMMENDATION:

Approve and Authorize Chairman to execute the Assignment of Customer Agreement for Reclaimed Water Rates

BACKGROUND:

Assignment of Customer Agreement for Reclaimed Water Rates **between K & B Associates XII, LLC and Walgreens Co.** related to the project known as **Walgreens 46A** (2,227 gpd for reclaimed water)

This document requires the consent of the BCC.

District 5

Reviewed by: <u>[Signature]</u> 5-205
Co Atty: <u>[Signature]</u>
DFS: _____
Other: _____
DCM: <u>[Signature]</u>
CM: <u>[Signature]</u>
File No. <u>CESA01</u>

ASSIGNMENT OF CUSTOMER AGREEMENT FOR RECLAIMED WATER RATES

THIS ASSIGNMENT is made and entered into this ____ day of APRIL, 2005, by and between **K&B ASSOCIATES XII, LLC**, a Florida limited liability company, whose address is 7586 W. Sand Lake Road, Orlando, Florida 32819, hereinafter referred to as "DEVELOPER" and **WALGREEN CO.**, an Illinois corporation, whose address is 200 Wilmot Road, Deerfield, Illinois 60015, hereinafter referred to as "PURCHASER".

W I T N E S S E T H:

WHEREAS, DEVELOPER 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" entered into an Customer Agreement for Reclaimed Water Rates dated January 14, 2005, hereinafter referred to as the "Agreement," for the provision of reclaimed water service by the COUNTY to the property of DEVELOPER as depicted in Exhibit "A," attached hereto and incorporated herein by reference, hereinafter referred to as the "Property"; and

WHEREAS, pursuant to the Agreement, COUNTY provided a rate for reclaimed water used on the Property and DEVELOPER conveyed to COUNTY a Reclaimed Water Flow, Distribution, Delivery and Spray Easement, hereinafter referred to as the "Easement", recorded on January 21, 2005 in Book 5589, Pages 270 through 286, inclusive, Public Records of Seminole County, Florida; and

WHEREAS, on February 25, 2005, DEVELOPER sold and conveyed the property to PURCHASER; and

gk

WHEREAS, DEVELOPER desires to assign all rights and obligations in the Agreement to PURCHASER and PURCHASER desires to obtain and assume all rights and obligations of the DEVELOPER thereunder; and

WHEREAS, DEVELOPER is obligated by paragraph 14 of the Easement to reference said Easement in all conveyances of the Property.

NOW, THEREFORE, in consideration of the promises and mutual covenants stated and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, DEVELOPER and PURCHASER agree as follows:

Section 1. Recitals. The foregoing recitals are incorporated herein as covenants and agreements and are made a part hereof.

Section 2. Assignment. DEVELOPER hereby assigns and transfers to PURCHASER all rights and obligations of DEVELOPER as set forth in the Agreement.

Section 3. Assumption. PURCHASER hereby assumes all rights and obligations of DEVELOPER as set forth in the Agreement and agrees to perform such obligations as described in the Agreement.

Section 4. Monthly Service Charge. DEVELOPER represents and warrants that it has paid all monthly service charges due to COUNTY in accordance with the Agreement through the date hereof. PURCHASER hereby agrees to pay the monthly service charges due to COUNTY pursuant to the Agreement subsequent to the date hereof.

Section 5. Notice. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place

for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

For DEVELOPER:

K&B Associates, XII, LLC, a Florida limited liability company
7586 W. Sand Lake Road
Orlando, Florida 32819

For PURCHASER:

Walgreen Co., an Illinois corporation
200 Wilmot Road
Deerfield, Illinois 60015

For COUNTY:

Director of Environmental Services Department
500 West Lake Mary Boulevard
Sanford, Florida 32773-7499

Section 6. Successors and Assigns. The provisions of this Assignment shall inure to the benefit of and be binding upon PURCHASER and its successors and upon DEVELOPER and its successors.

Section 7. Entire Agreement.

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Assignment that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

CONSENT OF COUNTY

COUNTY hereby consents to the above Assignment of the Customer Agreement for Reclaimed Water Rates dated January 14, 2005.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

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

By: _____
CARLTON HENLEY, Chairman

Date: _____

For the use and reliance
of Seminole County only.

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.

Approved as to form and
legal sufficiency.

Susan E. Dulmus 04-13-05
County Attorney

SED/lpk
3/15/05
assign k&b-walgreens

Attachment:

Exhibit "A" - Legal Description of Property

LEGAL DESCRIPTION

A tract of land being a portion of Section 6, Township 20 South, Range 30 East, Seminole County, Florida and being more particularly described as follows:

Commence at the Northwest corner of Section 6, Township 20 South, Range 30 East, Seminole County, Florida and run South 89°44'51" East along the North line of the Northwest 1/4 of the aforesaid Section 6 for a distance of 1211.03 feet; thence departing said North line and run South 00°15'09" West for a distance of 57.88 feet to the POINT OF BEGINNING being on the South right of way line of County Road #46A as shown on the right of way map for County Road 46A (Phase I) - County Project PS-117 said point being on a curve concave Northerly having a tangent bearing of North 88°31'15" East and a radius of 4,643.66 feet; thence run Easterly along said right of way and along the arc of said curve through a central angle of 03°11'13" for a distance of 258.29 feet to a point on the Westerly right of way line of International Parkway as per the Development Agreement Regarding International Parkway and Recreational Trail recorded in Official Records Book 3137, Page 0769 of the Public Records of Seminole County, Florida and being on a curve concave Southwesterly having a tangent bearing of South 89°44'51" East and a radius of 25.00 feet; thence run Southeasterly along the arc of said curve through a central angle of 89°51'17" for a distance of 39.21 feet to the Point of Tangency; thence run South 00°06'26" West, a distance of 249.19 feet; thence departing said Westerly right of way of International Parkway and run South 89°00'53" West, a distance of 277.77 feet; thence North 00°59'20" West, a distance of 265.24 feet to the POINT OF BEGINNING.

Containing 1.730 Acres, more or less.

EXHIBIT "A"