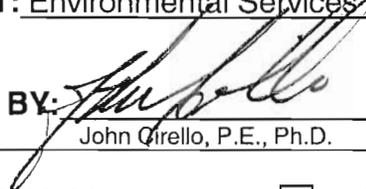


SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM

**SUBJECT:** Conditional Utility Agreement for Potable and Reclaimed Water Service

**DEPARTMENT:** Environmental Services **DIVISION:** Administration

**AUTHORIZED BY:**  **CONTACT:** Bob Briggs RB **EXT.** 2148  
John Cirello, P.E., Ph.D.

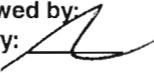
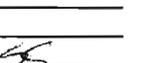
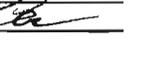
Agenda Date <u>6-13-06</u>	Regular <input type="checkbox"/>	Consent X <input checked="" type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>		Public Hearing – 7:00 <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

Approve use of the attached standard Conditional Utility Agreement as appropriate for the streamlining process established by Resolution 97-R-66.

**BACKGROUND:**

Staff is requesting the BCC incorporate reclaimed water into the streamlining process originally established by Resolution 97-R-66. As the utility expands provision of this service to the residential level with the initial phases of the retrofit program, the agreement processes and documents require revision. The attached iteration of the Conditional Utility Agreement for Potable and Reclaimed Water Service as revised has been prepared by the County Attorneys Office to accommodate this customer class. No additional revisions to the adopted streamlining process are required.

Reviewed by:	
Co Atty:	
DFS:	
Other:	
DCM:	
CM:	
File No.	<u>CE9102</u>

CONDITIONAL UTILITY AGREEMENT  
FOR  
POTABLE AND RECLAIMED WATER SERVICE

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and \_\_\_\_\_, hereinafter referred to as "DEVELOPER,"  
(Developer's Name)  
a \_\_\_\_\_.  
(Type of organization)

W I T N E S S E T H:

**WHEREAS**, DEVELOPER owns lands located in Seminole County, Florida, as described in Exhibit "A" and shown on the Survey in Exhibit "B" attached hereto (the "Property"), and DEVELOPER intends to develop the Property; and

**WHEREAS**, DEVELOPER has requested that the COUNTY provide central potable and reclaimed water service for the Property; and

**WHEREAS**, the COUNTY is willing to provide central potable and reclaimed water service to the Property and thereafter to operate the utility facilities so that the occupants of the improvements on the Property will receive central potable and reclaimed water service from COUNTY in accordance with the provisions of this Agreement;

**NOW, THEREFORE**, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, and the Water Agreement attached hereto as Exhibit "G" DEVELOPER and COUNTY hereby covenant and agree as follows:

**SECTION 1. PREAMBLE.** The foregoing statements are true and correct.

**SECTION 2. DEFINITIONS.** The following definitions of terms used in this Agreement shall apply unless the context indicates a different meaning:

(a) **"Application"** - A request in writing from DEVELOPER or a consumer requesting specific potable and reclaimed water service pursuant to the DEVELOPER's Agreement.

(b) **"Billing Unit"** - A factor used to convert the meter size to Billing Unit. For reclaimed water purposes, a three-fourth inch ( $\frac{3}{4}$ " ) meter is one (1) Billing Unit, a one inch (1") meter is three (3) Billing Units, a one and one half inch ( $1\frac{1}{2}$ " ) meter is five (5) Billing Units and a two inch (2") meter is eight (8) Billing Units.

(c) **"Connection Fees"** - A fee or charge paid to the COUNTY by DEVELOPER for the purpose of obtaining potable water capacity. Connection fees will be utilized for the acquisition, improvement, expansion and construction of facilities required to furnish present or future potable and reclaimed water capacity and service to the Property. The amount shall be determined in accordance with the COUNTY schedule of rates in effect from time to time.

(d) **"Consumer Installation"** - All facilities ordinarily on the consumer's side of the point of delivery (e.g. curb stop, lateral connections.)

(e) **"Consumer's Point of Delivery"** - Unless otherwise specified herein, the point where the potable and reclaimed water service is connected to the DEVELOPER's or consumer's service lateral. The water meters will be set at the consumer's property line unless otherwise provided.

(f) **"Contribution-in-Aid-of-Construction (CIAC)"** - The sum of money and/or the value of property required as a prerequisite to service to the Property.

(g) **"Development Phase"** - A subdivision or construction phase of the construction of utility facilities on Property.

(h) **"Developer's Points of Delivery"** - The points where the potable and reclaimed water service enters the DEVELOPER's Property or the point of connection of DEVELOPER's off-site installation to the COUNTY's system pursuant to Section 8.

(i) **"Equivalent Residential Connection (ERC)"** - A factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose, the average daily flow of one equivalent residential connection (ERC) is 350 gallons per day (GPD). The number of ERC's contained in a given ADF is determined by dividing that ADF by 350 GPD. (Note: ERC's are calculated as a whole number).

(j) **"Facilities"** - See Utility Facilities.

(k) **"FDEP"** - The Florida Department of Environmental Protection, or its successor agency.

(l) **"GPD"** - Gallons per day.

(m) **"Installation"** - See Utility Facilities.

(n) **"Property"** - The land described in Exhibit "A" and shown on the survey in Exhibit "B" attached hereto.

(o) **"Service" or "Utility Service"** - The readiness and ability of the COUNTY to furnish and maintain potable and reclaimed water service to the point of delivery.

(p) **"Service Rates"** or **"Rates"** - The COUNTY's existing and future schedules of rates and charges for potable and reclaimed water service, including connection fees, meter set fees, and all other fees and charges which from time to time are in effect pursuant to ordinances, resolutions or policies adopted by COUNTY. The schedules of Service Rates shall be of general and uniform application within the COUNTY-wide water and sewer utility system.

(q) **"Utility Facilities"** or **"Facilities"** or **"Installations"** - Utility facilities means and includes all equipment, fixtures, wells, pumps, lines, mains, manholes, lift stations, pumping stations, laterals, service connections, and appurtenances together with all real property, easements and rights-of-way necessary to provide potable and reclaimed water service to the Property whether located on-site or off-site. The words "Utility Facilities," "Water Facilities," "Facilities," or "Installations" shall be interchangeable unless otherwise indicated by the context.

**SECTION 3. CAPACITY ALLOCATION.** The parties agree that the capacity needed to provide service to the Property is \_\_\_\_\_ gallons per day for potable water supply, which is estimated to be \_\_\_\_\_ ERC and \_\_\_\_\_ gallons per day for reclaimed water supply, which is estimated to be \_\_\_\_\_ Billing Units, supplying approximately \_\_\_\_\_ acre(s) of the property.

Capacity allocation is subject to the Florida Department of Environmental Protection (Section 403.021, Florida Statutes, and Florida Administrative Code Rules 17-4.07 and 17-4.15) approval of applicable permits for the Property. Should the Florida Department of Environ-

mental Protection (FDEP) refuse to issue applicable permit(s) solely because capacity is not available, the DEVELOPER may request COUNTY to rescind the allocation of capacity.

DEVELOPER agrees that the number of units of capacity (ERC's) reserved hereby shall not exceed the number of units of development pursuant to Exhibits "A" and "B", and that the gallonage calculation to determine number of ERC's is for the purpose of allocating a given number of units of capacity (ERC) for the Property and not for purposes of any other calculations.

**SECTION 4. AGREEMENT TO SERVE.** Upon the completion of construction of potable and reclaimed water facilities by DEVELOPER, satisfactory inspections, the issuance of the final letter of acceptance by COUNTY, and subject to the terms of this Agreement, COUNTY agrees to permit connection of the potable and reclaimed water facilities installed by the DEVELOPER to the central facilities of COUNTY and to provide utility service in accordance with the terms and intent of this Agreement. Such connections shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. COUNTY agrees that once DEVELOPER or others have connected consumer installations to COUNTY's central facilities, COUNTY will continuously provide potable and reclaimed water service to the Property subject to continued compliance by DEVELOPER or consumer with all applicable COUNTY requirements for such service.

**SECTION 5. CONNECTION FEES.** In addition to the Contributions in Aid of Construction (CIAC) where applicable, the DEVELOPER hereby agrees to pay to the COUNTY all applicable connection fees in accordance with

the schedule in effect at the time of payment. Payment of the connection fees shall not excuse the DEVELOPER from payment of any other charges uniformly made, including, but not limited to, meter fees and meter set fees. The COUNTY shall not be obligated to refund any portion of connection fees paid nor shall the COUNTY pay interest on connection fees paid.

Should the FDEP not issue the applicable permit(s) solely because capacity is not available, refunds of the connection fees shall be made by the COUNTY within thirty days of written notification by the DEVELOPER of the FDEP's denial. Such requests to the COUNTY for refunds must be accompanied by a written request from the DEVELOPER that the COUNTY rescind the capacity allocation.

The DEVELOPER shall be obligated to pay connection fees, or any initial portion thereof, in accordance with the applicable COUNTY resolution in effect at the time the DEVELOPER is required to make payment. No user or consumer of potable and reclaimed water service shall be entitled to offset any bill rendered by the COUNTY for such service against connection fees paid. The DEVELOPER shall not be entitled to offset connection fees paid or payable against any claims of the COUNTY.

**SECTION 6. PAYMENT OF CONNECTION FEES.** The DEVELOPER shall be required to pay the connection fees for each Equivalent Residential Connection (ERC) in accordance with Exhibit "C" attached hereto. Connection fees shall be due and payable in accordance with the applicable COUNTY resolution in effect at the time of payment. A monthly operating charge shall be assessed for each remaining unit or

ERC which has not been transferred to a consumer after two (2) years from the date the COUNTY accepts the DEVELOPER's infrastructure or at the time of final inspection pertaining to a private system. Failure to pay monthly operating charge(s) may result in the termination and recapture of capacity allocation.

**SECTION 7. ON-SITE INSTALLATIONS.** To induce COUNTY to provide service to the Property, DEVELOPER agrees to construct and to transfer ownership and control to COUNTY as contribution-in-aid-of-construction the on-site potable and reclaimed water facilities constructed by the DEVELOPER or located on the Property. The term "on-site installations" means and includes all potable and reclaimed water distribution and supply mains, lines and pipes, and related facilities from the point of entry of COUNTY facilities at DEVELOPER's property line to the Point of Delivery excluding consumer installations, adequate in size and design to serve each lot or unit within the Property or as otherwise required by COUNTY. DEVELOPER shall install at its sole expense, all of the aforesaid facilities within the Property in accordance with the plans, specifications and all other pertinent documents approved by the COUNTY and in accordance with Section 9, "Procedures for Construction of Installations" herein.

**SECTION 8. OFF-SITE INSTALLATIONS.** To induce COUNTY to provide service to the Property, DEVELOPER agrees to construct and to transfer ownership and control to COUNTY as a contribution-in-aid-of-construction all necessary off-site installations from DEVELOPER's Property to the COUNTY's existing facilities. The term "off-site installations" means and includes all potable and reclaimed water distribution and supply

mains, lines and pipes and related facilities adequate in size and design to serve the Property or as otherwise required by COUNTY. Such off-site installations shall be in accordance with the master plans of the COUNTY as they relate to the potable and reclaimed water and sewer utility system. DEVELOPER shall install all of the off-site installations at its sole expense and in accordance with the plans, specifications and other pertinent documents approved by COUNTY, except that in no event shall DEVELOPER be required to oversize lines to the benefit of other properties without prior agreement for reimbursement on behalf of such other properties. DEVELOPER shall construct the off-site installations in accordance with Section 9, "Procedures for Construction of Installations" herein.

**SECTION 9. PROCEDURES FOR CONSTRUCTION OF INSTALLATIONS.**

DEVELOPER agrees that construction of all on-site and off-site installations as defined in Sections 7 and 8 respectively, shall be in accordance with the following requirements:

(a) **Permits.** DEVELOPER shall submit applicable FDEP permit applications to COUNTY for signature prior to submission of permit application to FDEP. DEVELOPER shall make application to COUNTY for Underground Utility Permits and any other applicable permits such as Right-of-Way Use Permits upon receipt of an approved permit from FDEP.

(b) **Plans and Specifications.** DEVELOPER will furnish COUNTY three (3) sets of all plans and specifications (Plans) for the installation to be constructed, prepared by a registered professional engineer. The plans shall be prepared in accordance with applicable COUNTY ordinances and policies including the Land Development Code, Water and Sewer

Guidelines and System Requirements for connection to COUNTY-owned utilities. DEVELOPER shall obtain approval of the Plans from all agencies having jurisdiction including the FDEP and COUNTY, if applicable, and submit to COUNTY one (1) copy of any construction permits. No construction shall commence until the COUNTY and appropriate regulatory agencies have approved such Plans in writing and the COUNTY has received copies of the construction permits. If construction commences prior to all such approvals, COUNTY shall have no responsibility to accept any of the installations and COUNTY may elect to terminate this Agreement or withhold service until such time as DEVELOPER has obtained all required approvals. Should DEVELOPER wish to record the plat of a subdivision prior to construction of any installation, DEVELOPER shall post a performance bond which is one hundred ten percent (110%) of the cost of construction of the installation.

(c) **Pre-construction Conference.** After securing all permits and approvals of Plans by COUNTY and the other agencies, DEVELOPER or the engineer of record shall set up a preconstruction conference with the engineer of record, utility contractor, the appropriate building officials and the COUNTY.

(d) **Notice to County.** DEVELOPER shall provide to COUNTY not less than forty-eight (48) hours written notice prior to commencement of construction and as-built surveys shall be submitted seven (7) days prior to final inspection. DEVELOPER shall provide to COUNTY forty-eight (48) hours notice, which may be either written or verbal, prior to any inspections or tests (other than final inspection) being performed

as described herein. Notices shall be deemed given upon actual receipt of same by COUNTY.

(e) **Inspections and Tests.** During construction of any installation by DEVELOPER, COUNTY shall have the right to inspect such installation, including but not limited to the materials, equipment, piping and connections to determine compliance with the approved Plans. The engineer of record shall also inspect construction to insure compliance with approved Plans, permits and other applicable requirements. All standard tests and inspections for pressure, exfiltration, line and grade, and all other engineering tests and inspections shall be performed with the engineer of record and utility contractor present to determine that the systems have been installed in accordance with the approved Plans, permits and good engineering practices and are functioning satisfactorily for the purpose for which the installation was designed. It shall be the DEVELOPER's responsibility to insure that all construction and the installation fully meet approved Plans, permits and applicable requirements of law and, upon completion, that the installation functions satisfactorily for the purpose for which it was designed.

(f) **Completion.** Upon completion of construction, DEVELOPER's engineer of record shall submit a signed certificate of completion certifying to COUNTY that the construction of the installation is complete, that the installation has been constructed in accordance with all permits, approved Plans, and applicable requirements of law, and as constructed, it will function for the purpose for which it was designed. If the certification is for a potable water distribution system, a copy

of the bacteriological results and a sketch showing locations of all sample points shall be provided.

(g) **As-built and Other Plans.** At least seven (7) days prior to final inspection, DEVELOPER or his engineer shall also provide COUNTY with two (2) sets of "as-built" surveys signed and sealed by a surveyor reflecting the location of all installations as constructed. DEVELOPER shall also provide a letter of completion to the COUNTY signed and sealed by the engineer of record, two (2) sets of approved paving and drainage plans and three (3) copies of the recorded subdivision plat. DEVELOPER shall further provide proof satisfactory to COUNTY that the installation and all contractors, subcontractors, materialmen and laborers have been paid in full, together with the engineer's certificate of the total cost of the installation.

**SECTION 10. WATER METERS.** Potable and reclaimed water meters necessary to serve the Property shall be installed by COUNTY at the Point of Delivery for residential development and by DEVELOPER for all other development. COUNTY shall designate the number, type, quality and size of said meters. The meters and enclosures are to be installed by the COUNTY after a building permit is issued for residential development and by DEVELOPER for all other types of development. The cost thereof and associated labor charges shall be paid by DEVELOPER prior to installation at the rates charged by COUNTY in effect at that time. All meters and enclosures shall remain the property of COUNTY. The COUNTY shall also be responsible for the installation of back flow prevention devices on the consumer side of the meters for residential development. The DEVELOPER shall be responsible as to all other types of development.

**SECTION 11. TITLE TO INSTALLATIONS CONSTRUCTED BY DEVELOPER.** As a condition precedent to the right to connect the on-site installations and any off-site installations to COUNTY's Utility System, DEVELOPER shall convey title to as much of those installations, including real property, easements and rights-of-way as are required by COUNTY in accordance with the following:

(a) **Compliance.** DEVELOPER shall be in compliance with this Agreement.

(b) **Time and Place of Conveyance.** Unless otherwise agreed upon in writing, conveyance shall be made when the COUNTY is prepared to issue its letter of acceptance to DEVELOPER and commence delivery of service to the Property. Upon completion of the installations, DEVELOPER shall deliver the necessary instruments of conveyance, properly executed, in substantially the same form attached hereto as Exhibit "D" (Warranty Deed), Exhibit "E" (Bill of Sale) and Exhibit "F" (Utility Easement), together with funds sufficient to pay all costs of conveyance and recording. Delivery shall be made to the COUNTY's Utilities Manager at the address shown herein for delivery of notices. Acceptance of the conveyance by the COUNTY shall not become final until the Board of County Commissioners duly accept same.

Upon a vote to accept conveyance by the Board of County Commissioners, the instruments of conveyance will be recorded in the public records of Seminole County. The COUNTY will issue a letter of acceptance to DEVELOPER and COUNTY's obligations to provide service in accordance with this Agreement shall commence.

(c) **Assurance of Title.** DEVELOPER shall, at its expense, deliver to COUNTY a title insurance policy or an opinion of title with respect to the Property confirming DEVELOPER's legal right to grant the deeds, easements and exclusive rights of service contained in this Agreement as a condition precedent to COUNTY's issuance of a letter of acceptance or delivery of service.

(d) **Conveyance.** DEVELOPER shall convey all of its interest in the installations to be conveyed to COUNTY by Warranty Deed, Bill of Sale, Easements, Endorsement, Assignments, Affidavits of No Liens or other good and sufficient instruments of transfer and conveyance, including necessary permits, as shall be effective to vest in COUNTY good and marketable title to the installations free and clear of all liens and encumbrances. Transfer of all manufacturers' and contractors' warranties, maintenance books and construction contracts shall be conveyed by unconditional assignment by DEVELOPER. DEVELOPER shall remain secondarily liable on such warranties and hereby agrees to indemnify and save harmless the COUNTY from any losses, damages, costs, claims, suits, debts or demands by reason of latent defects in the installations which could not have been reasonably discovered upon normal engineering inspection, for a period of two (2) years from the date of acceptance by the COUNTY of said utility installations.

(e) **Maintenance Bond.** DEVELOPER shall provide the appropriate maintenance bonds required by the Land Development Code and the Water and Sewer Guidelines in effect at the time of conveyance.

(f) **Manuals.** DEVELOPER shall provide COUNTY with all operation, maintenance and parts manuals necessary for the operation and maintenance of the installations.

**SECTION 12. EASEMENTS.** DEVELOPER hereby grants to COUNTY, subject to the terms of this Agreement, the exclusive right to construct, own, maintain and operate potable and reclaimed water facilities to serve the Property; and the exclusive right to construct, own, maintain and operate said facilities in, under, upon the present and future streets, easements, reserved utility strips and utility sites, and any public place as provided and dedicated to public use in the record plats, or as provided for in agreements, dedications or grants made otherwise and independent of said record plats.

DEVELOPER hereby further agrees that the foregoing grants include the necessary right of ingress and egress to any part of the DEVELOPER's property upon which COUNTY is constructing or operating utility facilities. The foregoing grants shall continue for as long as COUNTY required such rights for the construction, ownership, maintenance, operation or expansion of the facilities.

DEVELOPER, upon request of COUNTY, shall execute recordable easements acceptable to COUNTY to carry out the purposes of this Section.

The parties agree that in the event DEVELOPER and COUNTY agree to install any of the facilities in lands within the Property lying outside the streets and easement areas described above, then DEVELOPER or the owner shall grant to COUNTY the necessary easements for such "private property" installation.

Subject to COUNTY's prior written consent, the use of easements granted by DEVELOPER to COUNTY shall not preclude the use of other utilities of these easements, such as cable television, telephone, electric, or gas utilities, provided each does not interfere with COUNTY's use thereof.

COUNTY hereby agrees that all easement grants will be utilized in accordance with generally accepted practices of publicly owned potable and reclaimed water utilities with respect to the installation of all its facilities in any of the easement areas.

Where potable and reclaimed water utilities are to be installed in, under and across privately owned streets, rights-of-way, tracts and easements, the DEVELOPER agrees that the quality of restoration of landscaping and pavement associated with the COUNTY's maintenance activities on those utilities will only equal that which would be performed in streets, rights-of-way, tracts and easements dedicated to the public.

**SECTION 13. MORTGAGE LIENS.** Mortgagees, if any, holding prior liens on the Property shall be required to release such liens, subordinate their positions or join in any conveyance, grant or dedication of the easements or rights-of-way, or give to COUNTY assurance by way of a "non-disturbance agreement," that in the event of foreclosure, mortgagee would continue to recognize the ownership and easement rights of COUNTY, as long as COUNTY complies with the terms of this Agreement. All facilities, save and except consumer installations, shall be covered by easements or rights-of-way if not located within platted or dedicated roads or rights-of-way for utility purposes.

**SECTION 14. COUNTY'S EXCLUSIVE RIGHT TO UTILITY FACILITIES.**

DEVELOPER and COUNTY agree that all potable and reclaimed water facilities accepted by COUNTY in connection with providing service to the Property shall at all times remain in the sole and exclusive ownership of COUNTY. Any person or entity owning any part of the Property or any residence, building or unit constructed or located thereon, shall not have any right, title, claim or interest to such facilities for any purpose, including the furnishing of potable and reclaimed water services to others located within or beyond the limits of the Property. Subject to COUNTY's written consent, DEVELOPER may utilize other water sources for the Property for "non-domestic" uses such as for irrigation purposes.

**SECTION 15. EXCLUSIVE RIGHT TO PROVIDE SERVICE.** DEVELOPER shall not engage in the business of providing potable and reclaimed water services to the Property. DEVELOPER hereby grants COUNTY the sole and exclusive right to provide potable and reclaimed water services to the Property and to the occupants thereon.

**SECTION 16. SERVICE RATES.** The rates to be charged by COUNTY to the DEVELOPER or to a consumer for potable and reclaimed water service on the Property shall be those rates charged by COUNTY to its other customers pursuant to service rates from time to time in effect as defined herein. COUNTY reserves the right to withhold or disconnect service at any time the service rates are not paid on a current basis within forty (40) days after the same are billed; provided that written notification of such delinquency has been made by COUNTY to the DEVELOPER or consumer being served. DEVELOPER or consumer, as the case

may be, hereby agrees to save and hold harmless COUNTY for any loss or damages resulting from the exercise of this right.

The service to the Property shall be subject to such other regulations from time to time imposed on COUNTY with respect to the operations of its potable and reclaimed water and sewer systems, and except as limited by such regulations, the amounts of utility deposits, billing practices and times, liability for damage to COUNTY's Property and rate changes shall be exclusively within the discretion and control of COUNTY.

**SECTION 17. APPLICATION FOR SERVICE TO CONSUMER INSTALLATIONS.**

DEVELOPER, or any owner or occupant on the Property (consumer) shall not connect any consumer installation to the facilities of COUNTY until application has been made to COUNTY by the DEVELOPER or consumer and approval for such connection has been granted.

The DEVELOPER or the consumer shall be responsible for connecting the consumer installation to the meters and/or lines of COUNTY system at the points of delivery in accordance with the following requirements:

(a) Application for the installation of water meters and backflow preventors shall be made twenty-four (24) hours in advance, not including Saturdays, Sundays and holidays.

(b) All consumer installations may, at COUNTY's sole option, be inspected by COUNTY before backfilling and covering of any pipes.

(c) Written notice to COUNTY requesting an inspection of a consumer installation may be given by the DEVELOPER, the consumer or his contractor, and the inspection will be made within twenty-four (24) hours, not including Saturdays, Sundays and holidays, provided the water

meters and backflow preventor, if applicable, have been previously installed.

(d) If COUNTY fails to inspect the consumer installation within forty-eight (48) hours, excluding Saturdays, Sundays and holidays, after such inspection is requested in writing, DEVELOPER or consumer may backfill or cover the pipes without COUNTY's inspection and approval.

(e) The cost of construction, operation, maintenance, repair or replacement of consumer installations shall be the responsibility of DEVELOPER or consumer and not the COUNTY.

**SECTION 18. WATER CONSERVATION.** DEVELOPER agrees to employ water conservation measures in development of the Property. Subject to COUNTY review and approval to encourage potable water conservation, such measures shall include but not be limited to:

(a) Installation of low flush toilets which utilize 3.5 gallons or less of water per flushing cycle.

(b) Installation of shower heads which have flow restrictors, pulsating features, flow control devices or other features which result in water conservation; and do not allow a flow exceeding 3.0 gallons per minute at 60 psi.

(c) No swimming pool filter backwash water, or any other swimming pool wastewater shall be discharged to the sanitary sewer system.

(d) Installation of spring-loaded/automatic shutoff water fixtures in all public restrooms, including lavatory fixtures.

**SECTION 19. INSPECTION.** COUNTY may, at its option and without notice, inspect DEVELOPER's utility facilities at all times whether before or after completion of construction and acceptance of same by the

COUNTY. COUNTY, by inspecting or not inspecting to any extent whatsoever, shall not assume responsibility for construction or installation of DEVELOPER's utility facilities and shall in no way be deemed to waive any rights available to COUNTY for defaults on the part of DEVELOPER, or to consent to any defects, omissions or failures in the design, construction and installation of DEVELOPER's utility facilities.

**SECTION 20. RELOCATION OF UTILITY FACILITIES.** Any relocation of utility facilities required for DEVELOPER's convenience or necessity shall be done at DEVELOPER's expense provided such relocation can be accomplished without adverse impact on any other part of the facilities or other consumers.

**SECTION 21. NOTICES.** Any payment or notice required or permitted hereunder shall be in writing and be deemed properly made when hand delivered to the official hereinafter designated, or upon actual receipt when deposited in the United States mail, postage prepaid, addressed as set forth herein, or at such other address as shall have been specified by written notice to the other party delivered in accordance herewith:

COUNTY: Director  
Environmental Services Department  
500 West Lake Mary Boulevard  
Sanford, Florida 32773

COPY TO: County Attorney  
Seminole County Services Building  
1101 East First Street  
Sanford, FL 32771

DEVELOPER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION 22. COSTS AND ATTORNEY'S FEES.** In the event COUNTY or DEVELOPER brings an action to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, together with reasonable attorney's fees at all levels, including appeals.

**SECTION 23. INTERPRETATION.** DEVELOPER and COUNTY agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

**SECTION 24. ASSIGNMENT.** This Agreement may not be assigned by DEVELOPER without the prior written consent of COUNTY, which shall not be unreasonably withheld, provided DEVELOPER's successor or assign expressly assumes DEVELOPER's obligations hereunder by execution of this Agreement. Capacity allocated hereunder may not be sold or assigned to any other property whether or not owned by DEVELOPER.

**SECTION 25. STRICT COMPLIANCE.** Failure to insist upon strict compliance of any of the terms, covenants, or conditions in this Agreement shall not be deemed a waiver thereof, nor shall any waiver of any right hereunder at any one time be deemed a waiver of such right at any other time.

**SECTION 26. TIME OF THE ESSENCE.** Time is hereby made of the essence of this Agreement in all respects.

**SECTION 27. ENTIRE AGREEMENT AND INCORPORATION BY REFERENCE.** This Agreement constitutes the entire agreement of the parties and expressly supersedes all negotiations, previous agreements or

representations whether verbal or written, and may not be amended in any way whatsoever, except by a writing executed by both parties hereto in a manner equal in dignity to the execution of this Agreement; provided however, that documents for the implementation of this Agreement, including all permits, engineering design and construction contracts, plans and specifications for the utility facilities as and when approved and filed with COUNTY's Environmental Services Department are incorporated herein by reference.

**SECTION 28. BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the heirs, successors, personal representatives and assigns of the parties hereto and shall constitute a covenant running with the Property.

**SECTION 29. LIABILITY.** I, for myself, the owner, the DEVELOPER and our successors and assigns, agree to hold harmless and indemnify the COUNTY, the Seminole County Board of County Commissioners, its employees and agents from any and all claims, damages, causes of actions or other liabilities that arise out of or in relation to FDEP or another applicable agency's denial of applicable permits to provide water service to the Property. The COUNTY's obligations hereunder shall be contingent upon the DEVELOPER's obtaining any and all necessary and required permits from FDEP and all other applicable agencies.

**SECTION 30. GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Florida and the ordinances, resolutions and policies of COUNTY not prohibited thereby.

**SECTION 31. EFFECTIVE DATE.** This Agreement shall be effective upon proper execution by both parties hereto.

SECTION 32. CONFLICTS. In the event of a conflict between this DEVELOPER's Agreement and the Water Agreement attached hereto as Exhibit "G" the specific provisions of the Water Agreement attached as Exhibit "G" shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement with the named exhibits attached to be executed on the day and year first above written.

ATTEST:

\_\_\_\_\_  
, Secretary

By: \_\_\_\_\_  
, President

(CORPORATE SEAL)

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

SEMINOLE COUNTY, FLORIDA

WITNESSES:

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_  
UTILITIES MANAGER, DEPARTMENT OF  
ENVIRONMENTAL SERVICES

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

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

Within authority delegated by  
the County Manager pursuant to  
Resolution No. 97-R-66 adopted  
March 11, 1997, and further  
delegated by Memorandum dated  
March 27, 1997, Re: Streamlining  
Of Development-Related Agenda  
Items and approved on April 2,  
1997.

\_\_\_\_\_  
County Attorney  
SED/krc  
5/09/06

Attachments:

- Exhibit "A" - Legal Description
- Exhibit "B" - Survey
- Exhibit "C" - Connection Fees
- Exhibit "D" - Warranty Deed
- Exhibit "E" - Bill of Sale
- Exhibit "F" - Easement (s)
- Exhibit "G" - Water Agreement

List of Exhibits to  
Utility Agreement for Water Service  
Between  
Seminole County, Florida  
and

---

<u>Exhibit</u>	<u>Name</u>	<u>Section</u>
"A"	Legal Description of Property.....	2 (m) <i>Provided by Custom</i>
"B"	Survey of Property..... <i>8 1/2 x 14 no larger</i>	2 (m) <i>Provided by Custom</i>
"C"	ERC's Reserved and Connection Fees Payable.....	6
"D"	Warranty Deed.....	11 (b)
"E"	Bill of Sale.....	11 (b)
"F"	Easements.....	11 (b)
"G"	Water Agreement.....	Preamble & 32

# EXHIBIT "A"

## COPY

### LEGAL DESCRIPTION:

Tract M, CHASE GROVES UNIT 1, according to the plat thereof recorded in Plat Book 44, Pages 24 through 28, of the Public Records of Seminole County, Florida.

contains 5.451 acres more or less.



Miller  
Einhouse  
Rymer &  
Boyd

- Community Planning*
- Project Management*
- Civil Engineering*
- Landscape Architecture*

500 Winderley Place, Suite 100  
Maitland, Florida 32751  
Phone 407-838-8041  
Fax 407-838-8047

[www.MERandB.com](http://www.MERandB.com)

230 East Monument Ave., Suite B  
Kissimmee, Florida 34741  
Phone 407-343-8192  
Fax 407-343-1994

JOB NO. 0117.10

SEC. 03, T 20 S, R 30 E

DRAWN BY: GLS

APPROVED BY: GLS

DATE: 12/20/05

N.T.S.

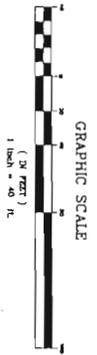
## Chase Groves

LEGAL DESCRIPTION

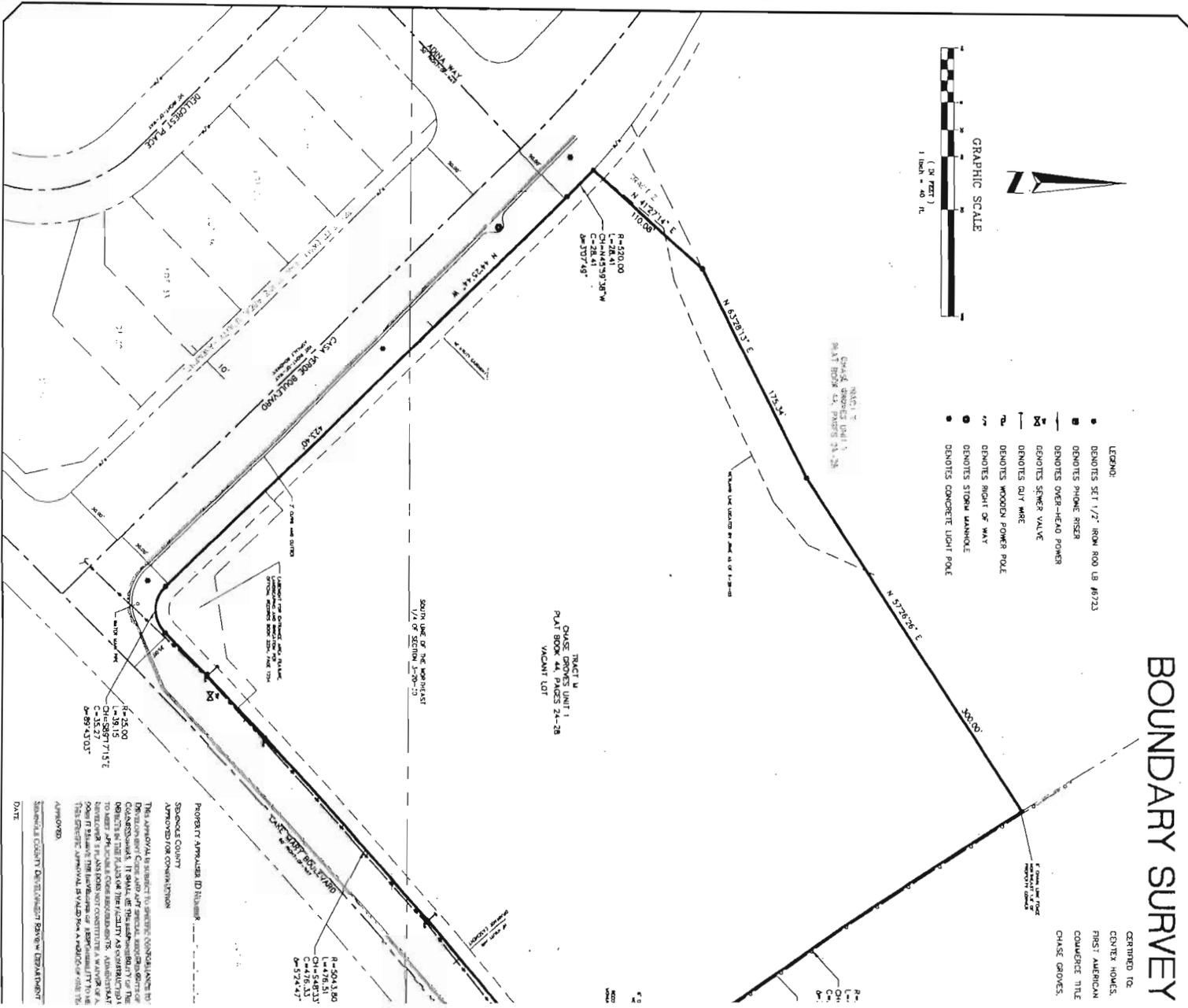
# EXHIBIT 'B' COPY

## BOUNDARY SURVEY

CERTIFIED TO:  
 CENTEX HOMES,  
 FIRST AMERICAN  
 COMMERCIAL TITLE  
 CHASE GROVES.



- LEGEND:
- DENOTES SET 1/2" IRON ROD US #6723
  - DENOTES PHONE RISER
  - DENOTES OVER-HEAD POWER
  - ⊗ DENOTES SEWER VALVE
  - ⊕ DENOTES GUY WIRE
  - ⊙ DENOTES WOODY POWER POLE
  - ⊖ DENOTES RIGHT OF WAY
  - DENOTES STORM MANHOLE
  - DENOTES CONCRETE LIGHT POLE



TRACT II  
 CHASE GROVES UNIT I  
 PLAT BOOK 44, PAGES 24-28  
 VACANT LOT

SOUTH LINE OF THE BOUNDARY  
 (LINE OF SECTION 29-13)

PROPERTY APPLICANT: ID NUMBER \_\_\_\_\_  
 APPROVED FOR CONVEYANCE  
 SHERBOURNE COUNTY  
 APPROVED FOR CONVEYANCE

The approval is subject to specific conditions for the conveyance. It shall be the responsibility of the applicant to verify the accuracy of the information provided to meet applicable requirements. Applicant's consent to this survey is hereby given and the applicant agrees to indemnify and hold the surveyor harmless from and against all claims, damages, costs and expenses, including reasonable attorney's fees, which may be asserted against or incurred by the surveyor in connection with this survey. This consent is valid from a date of the survey.

APPROVED:  
 SHERBOURNE COUNTY DEPUTY CLERK BERNIE BERNARD  
 DATE \_\_\_\_\_

R=504.180  
 CH=548.733  
 C=476.33  
 Δ=574.47

R=35.00  
 CH=387.7157  
 C=33.27  
 Δ=307.4307

R=520.00  
 CH=443.9378  
 C=28.41  
 Δ=307.457

## EXHIBIT "C"

### Water Connection Fees

Developer agrees to pay Seminole County the following connection fees to induce the County to reserve the following plant capacities for Developer's proposed connections within the "Property". Developer understands that the plant capacities are only reserved upon payment of Charges by Developer to Seminole County. The fees set forth below are the connection fees in effect as of the date of this Developer Agreement and are subject to changes in accordance with the terms thereof.

#### Payment Schedule

<u>Customer</u> <u>Category</u>	<u>Number</u> <u>of</u> <u>Units</u>	<u>ERC</u> <u>Factor</u>	<u>Total</u> <u>ERCs</u>	<u>Total</u> <u>Gallons</u>	<u>Charge</u> <u>Per</u> <u>Gallon</u>	<u>Total</u> <u>Charges</u>
------------------------------------	--	-----------------------------	-----------------------------	--------------------------------	--	--------------------------------

FEES HAVE NOT BEEN SATISFIED

WARRANTY DEED (Individual to County)

THIS WARRANTY DEED is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_, (Print or Type), whose address is \_\_\_\_\_, hereinafter called the GRANTOR, 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 called the GRANTEE.

W I T N E S S E T H:

That the GRANTOR, for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00) and other valuable considerations, to GRANTOR in hand paid by the GRANTEE, the receipt whereof is hereby acknowledged by these presents does grant, bargain, sell, release, convey and confirm unto the GRANTEE, its heirs and assigns forever, all that certain land lying and being in the County of Seminole, State of Florida, more particularly described as follows:

Property Appraiser's Parcel Identification Number \_\_\_\_\_.

This Instrument Prepared by:

Address:

**TOGETHER** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the same in fee simple forever.

**AND** the GRANTOR hereby covenants with said GRANTEE that the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the GRANTEE. The GRANTOR represents that any and all facilities or systems located in, upon, or within the conveyed property are free from all latent and patent design, construction and other defects. The GRANTOR hereby represents to the GRANTEE that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers and conveys to the GRANTEE any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to, any and all warranties, claims and other forms of indemnification. By execution of this document, the GRANTOR affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this document and in this form. The GRANTOR recognizes that the GRANTEE is relying upon the GRANTOR's representations as herein expressed. The GRANTOR further accepts responsibility over and agrees to indemnify and hold the GRANTEE harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating to or arising from this conveyance.



BILL OF SALE (Corporation to County)

KNOWN ALL MEN BY THESE PRESENTS, that \_\_\_\_\_,  
(type or print corporate name), a corporation existing under the laws of  
the State of \_\_\_\_\_ (type or print), having its principal  
place of business at \_\_\_\_\_, hereinafter  
referred to as SELLER, for and in consideration of the sum of TEN AND  
NO/100 DOLLARS (\$10.00) and other valuable consideration paid by  
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 BUYER, the receipt of  
which is hereby acknowledged by the SELLER, has granted, bargained,  
sold, transferred and delivered to BUYER, its successors, heirs,  
executors, administrators and assigns forever, the following property,  
hereinafter referred to as PROPERTY:

Property Appraiser's Parcel Identification Number \_\_\_\_\_.

This Instrument Prepared by:

Address:

TO HAVE AND TO HOLD the same unto the BUYER, its successors, heirs, executors, administrators and assigns forever.

AND the SELLER hereby covenants with said BUYER that SELLER is lawfully seized of the PROPERTY; that SELLER has good right and lawful authority to sell and convey said PROPERTY; that SELLER hereby fully warrants the title to said PROPERTY and will defend the same against the lawful claims of all persons whomsoever; and that said PROPERTY is free of all encumbrances except those described herein.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the BUYER. The SELLER represents that any and all facilities or systems located in, upon, or within the conveyed property are free from all latent and patent design, construction and other defects. The SELLER hereby represents to the BUYER that it has no knowledge of any latent or patent defects. SELLER hereby assigns, transfers and conveys to the BUYER any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to, any and all warranties, claims and other forms of indemnification. By execution of this document, the SELLER affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this document and in this form. The SELLER recognizes that the BUYER is relying upon the SELLER's representations as herein expressed. The SELLER further accepts responsibility over and agrees to indemnify and hold the BUYER harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating or arising from this conveyance.



UTILITY EASEMENT (Limited Partnership to County)

THIS UTILITY EASEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (type or print name), a Florida limited partnership, whose address is \_\_\_\_\_ (type or print), hereinafter referred to as the GRANTOR, 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 the GRANTEE.

W I T N E S S E T H:

FOR AND IN CONSIDERATION of the sum of ONE AND NO/100 DOLLAR (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, GRANTOR does hereby grant and convey to the GRANTEE and its assigns, an exclusive easement and right-of-way for utility purposes, with full authority to enter upon, excavate, construct and maintain, as the GRANTEE and its assigns may deem necessary, electric poles, telephone poles, wires, guy wires and appurtenances, water pipes, sewer pipes, gas pipes and mains and any other utility facilities and appurtenances over, under, upon and through the following described lands situate in the County of Seminole, State of Florida, to-wit:

Property Appraiser's Parcel Identification Number \_\_\_\_\_.

This Instrument Prepared by:

Address:

TO HAVE AND TO HOLD said easement and right-of-way unto said GRANTEE and its assigns forever.

THE GRANTEE and its assigns shall have the right to clear, keep clear and remove from said right-of-way all trees, undergrowth, and other obstructions that may interfere with location, excavation, operation or maintenance of the utilities or any facilities installed thereon by the GRANTEE and its assigns, and the GRANTOR, its successors and assigns, agree not to build, construct or create, or permit others to build, construct or create any buildings or other structures on the said right-of-way that may interfere with the location, excavation, operation or maintenance of the utilities, or any facilities installed thereon. Notwithstanding the issuance of any permit to construct a fence or other structure, the GRANTOR recognizes and consents to the right of the GRANTEE or an authorized utility company, if applicable, to remove the fence or other structure from the easement area without compensation or reimbursement to the GRANTOR if the fence or other structure is deemed to impede the purpose or utility of the easement.

GRANTOR does hereby covenant with the GRANTEE, that it is lawfully seized and possessed of the real estate above described, that it has a good and lawful right to convey the said easement and that it is free from all encumbrances.

The property conveyed herein may include roads, lines (water, sewer or other), drainage facilities or systems, or other facilities or systems which will become the responsibility of the GRANTEE. The GRANTOR represents that any and all facilities or systems located in, upon, or within the conveyed property are free from all latent and patent design, construction and other defects. The GRANTOR hereby represents to the GRANTEE that it has no knowledge of any latent or patent defects. GRANTOR hereby assigns, transfers and conveys to the GRANTEE any and all rights against any and all firms or entities which may have caused such latent or patent defects including, but not limited to, any and all warranties, claims and other forms of indemnification. By execution of this document, the GRANTOR affirmatively represents that it has the contractual right, consent and lawful authority of any and all forms to take this action in this document and in this form. The GRANTOR recognizes that the GRANTEE is relying upon the GRANTOR's representations as herein expressed. The GRANTOR further accepts responsibility over and agrees to indemnify and hold the GRANTEE harmless from and against any and all damages, liabilities, costs and matters relating to latent and patent defects in any way relating to or arising from this conveyance.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

WITNESSES: Signed, sealed and delivered

\_\_\_\_\_  
(Type Limited Partnership Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature) , GRANTOR

\_\_\_\_\_  
(Legibly Print/Type/Stamp Name)

\_\_\_\_\_  
(Legibly Print/Type/Stamp Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type) TITLE

\_\_\_\_\_  
(Legibly Print/Type/Stamp Name)

STATE OF )  
 )  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (name of acknowledging partner or agent), partner (or agent) on behalf of \_\_\_\_\_ (name of limited partnership), a limited partnership. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did (did not) take an oath.

WITNESS my hand and official seal in the County and State aforesaid this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOTARY SEAL

\_\_\_\_\_  
(Signature) Notary Public, in and for the County and State aforementioned

Env Srv ue  
8/22/05

Exhibit "G"

Water Agreement

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **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," and \_\_\_\_\_, whose address is \_\_\_\_\_, referred to as "OWNER".

W I T N E S S E T H:

**WHEREAS**, OWNER owns certain real property in Seminole County, Florida, hereinafter referred to as "the Property," as described in Exhibit "A," and set forth on the survey in Exhibit "B," attached to the Conditional Utility Agreement For Water Service; and

**WHEREAS**, OWNER requires a water service system to serve future residential development to be located on the Property; and

**WHEREAS**, OWNER is willing to construct an off-site water system and other appurtenant facilities to serve the Property and convey the water system and appurtenant facilities to the COUNTY in return for the considerations set forth herein; and

**WHEREAS**, OWNER has executed a Conditional Utility Agreement For Water Service to which this Agreement is attached as Exhibit "G" and together the Conditional Utility Agreement For Water Service and this Agreement comprise the complete and entire water agreement between the parties,

**NOW, THEREFORE,** in consideration of the premises, the parties mutual covenants and agreements, including the cost of designing, permitting, constructing, conveying and accepting the water system as hereinafter defined, the Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

**Section 1. Recitals.** The foregoing premises are true and correct and form a material part of this Agreement upon which the parties have relied.

**Section 2. Definitions.** As used in this Agreement, certain terms and phrases appearing herein are defined as follows:

(a) Water System. The term "Water System" shall refer to and mean the construction of an off-site water transmission system on \_\_\_\_\_ to \_\_\_\_\_ including transmission mains, stub-outs, pipes, valves, fittings and other such pertinent facilities as are routinely placed in public rights-of-way or dedicated easements. All permits and engineering design and construction contracts, plans and specifications for the Water System as and when filed with and approved by the County's Planning Department, Development Review Division, are incorporated herein by reference.

(b) Service Area. The term "Service Area" shall mean and consist of the Property which is to be developed and which is described in Exhibit "A" of the Conditional Utility Agreement for Water Service.

**Section 3. Agreement to Construct and Convey.** OWNER agrees to construct and convey to the COUNTY the Water System and the COUNTY, in

reliance on the representations and warranties of OWNER contained herein and subject to the terms and conditions of this Agreement, agrees to accept the Water System from OWNER and pay for the cost thereof upon completion of the Water System. OWNER represents and warrants that:

(a) OWNER shall cause to be designed, permitted and constructed, the Water System to the Property. Any Federal, State or local permitting fees and approvals, if applicable, shall be the responsibility of the OWNER; provided, however, that the COUNTY shall be responsible for the Right-of-Way use permit fee, if applicable, the Florida Department of Environmental Protection permit fee and the underground utility permit fee, all related to the off-site water main only.

(b) Subject to the terms of this Agreement, the OWNER shall commence construction of the Water System within four (4) months and complete construction within twelve (12) months of execution of the Agreement.

(c) OWNER's agreement to construct and convey the Water System is in addition to OWNER's agreement to construct, install and convey, at OWNER's sole cost and expense, all other water transmission, collection and meter facilities necessary to provide water service to OWNER's Property pursuant to the Conditional Utility Agreement For Water Service.

**Section 4. Conveyance.** In addition to the provisions set forth in Section 11, Title to Installations Constructed by Developer, of the

Conditional Utility Agreement For Water Service, the following shall apply:

(a) Conveyance shall be closed at the Seminole County Services Building within fifteen (15) days of the vote relating to conveyance by the Board of County Commissioners.

(b) Real and personal property taxes, if any, shall be the responsibility of the OWNER and prorated as of the date of closing. Any corrective instruments required in connection with perfecting OWNER's title shall be prepared and recorded by OWNER prior to closing.

**Section 5. Construction of Installations.** In addition to the provisions of Section 9 of the Conditional Utility Agreement For Water Service, the OWNER shall provide COUNTY with the proposed utility contractor's firm name, key agents, address and brief description of previous applicable jobs so that the COUNTY may approve said contractor prior to establishment of a pre-construction conference. Approval shall not be unreasonably withheld by the COUNTY.

**Section 6. Payment.** COUNTY shall reimburse OWNER for the actual costs incurred in construction of the Water System as described in Section 2(a) herein. The anticipated construction costs are set forth in Attachment "A" attached hereto and incorporated herein and shall not exceed \_\_\_\_\_. Actual costs shall include all design, permitting, construction, labor and materials associated with construction of the Water System. To be eligible for reimbursement by COUNTY, the costs incurred by OWNER must be reviewed and written consent obtained from COUNTY by OWNER prior to incurring the costs. These costs shall be based on the contractor's invoices and

OWNER's engineer's certification of the invoices and in accordance with cost and pay estimates approved by COUNTY. Payment shall be made as follows:

(a) Notwithstanding any other provision of this Agreement, the total repayment amount shall not exceed the amount of OWNER's contract to construct the Water System together with change orders as approved by the COUNTY in writing.

(b) The COUNTY shall reimburse the OWNER for approved costs of design, permitting and construction of the Water System upon completion of construction. Payments shall be by COUNTY warrant within forty-five (45) days of receipt and approval by COUNTY of the bill of sale, contractor invoices, engineer certification of completion, Florida Department of Environmental Protection acceptance and clearance, final COUNTY inspection and COUNTY receipt of as-builts related to off-site water main in accordance with this Agreement.

**Section 7. Risk of Loss.** OWNER shall bear the risk of loss or damage to the Water System prior to conveyance and acceptance by the COUNTY. OWNER shall restore at its expense all loss or damage within a reasonable period of time.

**Section 8. Approval of County.** As a condition precedent to COUNTY's obligations hereunder, the OWNER shall deliver to COUNTY for COUNTY's prior review and approval all plans, specifications, drawings, financial and cost projections, construction and other contracts and corresponding prices prepared for the OWNER regarding the Water System. Under no circumstances shall the review by the COUNTY impose on the COUNTY any liability to the OWNER for faulty design or con-

struction of the Water System. It is acknowledged by the parties that the COUNTY review contemplated in this Section is only for the purpose of determining the operational acceptability of the Water System and for no other purpose whatsoever. Nothing in this Section shall relieve OWNER of its obligations under this Agreement, the Conditional Utility Agreement For Water Service, or under applicable COUNTY regulations and procedures.

**Section 9.** Access to Site. The COUNTY shall provide to the OWNER rights of access and easements over property belonging to or controlled by the COUNTY for installation of the Water System as required for the completion of the approved Water System and in accordance with the approved plans and specifications. County Development Fees related to development of the adjacent subdivision including underground utilities fees and right-of-way use fees, shall not be waived by this Section.

**Section 10.** Operation and Maintenance. Upon transfer, the COUNTY shall be responsible for operation and maintenance of the Water System and shall assure service to all present and future connections to the Property; provided, however, that the COUNTY's obligation shall be consistent with and not greater than the COUNTY's obligation to provide such water service to the public generally.

**Section 11.** Indemnification. OWNER agrees to hold harmless and indemnify the COUNTY, its Commissioners, officers, employees and agents from and against any and all claims, losses, damages, or lawsuits for damages, including any and all court costs and attorney fees

arising from or related to the performance of this Agreement between OWNER and COUNTY.

OWNER further agrees to hold harmless and indemnify the COUNTY, its Commissioners, officers, employees and agents from and against any and all claims, losses, damages or lawsuits for damages resulting from:

(a) any misrepresentation of a material fact contained in this Agreement or the exhibit attached hereto; or

(b) any breach of warranties made by OWNER pursuant to this Agreement.

**Section 12. County's Liability.** Notwithstanding everything contained herein to the contrary, OWNER understands and agrees that the obligations of the COUNTY, including, but not limited to, the payment of costs to be made hereunder to OWNER shall not be deemed to be or constitute a pledge of the full faith and credit of the general revenues, including non-ad valorem tax revenues of the COUNTY.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

\_\_\_\_\_  
, Secretary

By: \_\_\_\_\_  
, President

(CORPORATE SEAL)

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

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

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

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman  
Date: \_\_\_\_\_

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 Commission-  
ers at their \_\_\_\_\_,  
20\_\_\_\_, regular meeting.

\_\_\_\_\_  
County Attorney  
SED/lpk  
4/23/02  
exhibit G - water

Attachment:  
Attachment "A" - Construction Costs