

# MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

<b>SUBJECT</b>	Mt. Vernon Reclaimed Water Agreement	<b>TYP# AGENDA ITEM</b>	Consent
<b>DATE REQUESTED</b>	July 28, 1998	<b>DATE SUBMITTED/REVISED</b>	July 10, 1998
<b>BRIEFINGS?/WHO?</b>	None Required	<b>CONSEQUENCES IF DEFERRED</b>	Decreases Quantity Of Reclaimed Water Being Discharged From SWRTP
<b>DEPARTMENT/DIVISION</b>	Public Works Reclaimed Water	<b>AUTHORIZED BY TITLE</b>	Len Bramble, P. E. Public Works Director
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Ed McAdam/Elaine Apostol 5249/5233 <i>76207</i>	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Len Bramble, P. E. 5244

**ADMINISTRATIVE APPROVAL**

### ACTION DESIRED

INDICATE WHETHER "REPORT or "DISCUSSION, "FORM OF MOTION, or "OTHER ACTION REQUIRED:

Authorization for the Chairman to execute an agreement with Mount Vernon Condominium Association, Inc. for the delivery and use of reclaimed water for an effective time period of five (5) years ending on November 30, 2002.

### ENABLING/REGULATING AUTHORITY

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy.)

COMP PLAN - Objective 11.1.5, EFFLUENT DISPOSAL, AND POLICIES 11.1.5.1, ENCOURAGE LONG TERM AGREEMENTS, and 11.1.5.2 USE RECOVERED WATER TO IRRIGATE.  
LDC - Section 722.1.8.3, R-92-28 Reuse Resolution.  
FEDERAL - NPDES FL0027847 and FLORIDA 17-610 FAC, Reclaimed Water; FDEP Permit DO41-234440.

### BACKGROUND/DISCUSSION

SEE PAGE 2

HAS COUNTY ATTORNEY REVIEW BEEN REQUESTED? Indicate "NO" or "YES" @ right. (If "NO," proceed to 1) below; and if "YES," proceed to 2) below) YES

1) IF "NO" TO ABOVE.

A) PLEASE EXPLAIN BELOW: (see also following section 1B) re: contract, agreement, lease, etc.:

B) IF A CONTRACT, AGREEMENT, LEASE OR OTHER DOCUMENT WAS PREVIOUSLY APPROVED, STATE YEAR OF LAST USE @ RIGHT:

2) IF "YES" TO FIRST QUESTION IN THIS SECTION.

A) HAS ENTIRE MATTER, OR ONLY A PORTION, BEEN REVIEWED? IF ONLY A PORTION, WHICH PORTION?

ENTIRE MATTER

B) HAVE ALL COMMENTS/SUGGESTIONS RAISED BY COUNTY ATTORNEY BEEN ADDRESSED/INCORPORATED; IF NOT, PLEASE EXPLAIN. A COPY OF FINAL COUNTY ATTORNEY MEMO RE THIS MATTER **MUST BE ATTACHED** (if comments were verbal, so indicate.)

ALL COMMENTS INCORPORATED

**ATTACHMENTS: (List in order as attached)**

- 1) Reclaimed Water Agreement
- 2) County Attorney's Memo dated 5/15/98

**INSTRUCTIONS TO BOARD RECORDS:**

Return executed copy of document to Public Works Dept. (Elaine Apostol)

**COST** None, Existing Line

**SOURCE (ACCT# & NAME)** N/A

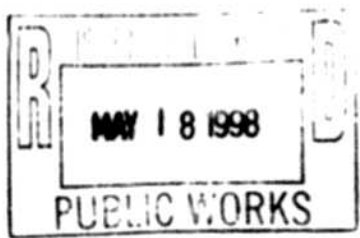
**COMMENTS** None

**AMT./FREQ. OF RECURRING COSTS (ATTACH FISCAL IMPACT STATEMENT)** N/A

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**BACKGROUND/DISCUSSION (CONTINUED)**

- **MT. VERNON CONDOMINIUM ASSOCIATION, INC. , AT 4701 INDEPENDENCE DRIVE, IS LOCATED ON THE CORTEZ PENINSULA IMMEDIATELY ADJACENT TO A MAJOR RECLAIMED WATER TRANSMISSION LINE ON CORTEZ ROAD.**
- **MT. VERNON CONDOMINIUM ASSOCIATION, INC. HAS BEEN A RECLAIMED WATER CUSTOMER SINCE MAY 1996.**
- **MANATEE COUNTY UTILITY RATE RESOLUTION R97-135 CHANGED RECLAIMED WATER RATES AND BECAME EFFECTIVE DECEMBER 1, 1997.**
- **IN ACCORDANCE WITH R97-135 SECTION 5.02(D)(1), "RETAIL CUSTOMERS WHO AVERAGE IN EXCESS OF 1 MILLION GALLONS PER MONTH WILL BE REQUIRED TO ENTER INTO A SERVICE CONTRACT WITH MANATEE COUNTY APPROVED BY THE BOARD WHICH WILL INCLUDE QUANTITY RATES".**
- **MT. VERNON CONDO ASSOCIATION'S MONTHLY AVERAGE EXCEEDS ONE MILLION GALLONS FOR LAWN IRRIGATION.**
- **MT. VERNON CURRENTLY UTILIZES 183,000 GALLONS PER DAY.**
- **THE AGREEMENT STIPULATES A COST RATE OF TEN (\$0.10) CENTS PER THOUSAND GALLONS WITHOUT AN ACCEPTABLE GROUNDWATER CREDIT FOR SWFWMD. THE AGREEMENT IS FOR A PERIOD OF FIVE (5) YEARS ENDING ON NOVEMBER 30, 2002.**
- **THE AGREEMENT STIPULATES THAT A CREDIT OF \$3,128.54 IS DUE THE PROPERTY OWNER FOR THE WATER PURCHASED BETWEEN DECEMBER 1, 1997 AND THE EXECUTION OF THIS AGREEMENT.**



Office of  
**MANATEE COUNTY  
ATTORNEY**

\* Board Certified City, County & Local Government Law  
† Board Certified Civil Trial

Teddy N. Williams, Jr., County Attorney  
Mark P. Barnebey, Chief Assistant County Attorney \*  
Paul G. Bangel, Senior Assistant County Attorney \*  
William C. Henry, Senior Assistant County Attorney for Risk Management  
Patricia McVoy, Senior Assistant County Attorney \*  
James A. Minix, Senior Assistant County Attorney †  
Mitchell O. Palmer, Senior Assistant County Attorney  
Jeffrey N. Steinsnyder, Senior Assistant County Attorney \*

May 15, 1998

**MEMORANDUM**

**TO:** Lenox E. Bramble, P.E., Director, Public Works Department  
**THRU:** Teddy N. Williams, Jr., County Attorney *TNW 5/18/98*  
**FROM:** Jeffrey N. Steinsnyder, Senior Assistant County Attorney *JNS 5-15-98*  
**RE:** **MT. VERNON RECLAIMED WATER AGREEMENT  
REQUEST FOR LEGAL SERVICES 98-88  
CAO FILE NO. 1145-068**

I have now had an opportunity to review your Agreement for Delivery and Use of Reclaimed Irrigation Water to the Mt. Vernon Condominium Association. Attached to this memorandum is a marked-up copy of the agreement.

A present draft raises two (2) issues of concern.

- (1) The agreement is written as if there is rule criteria currently adopted for Groundwater Withdrawal Credit Permits. As you are undoubtedly aware, the concept of Groundwater Withdrawal Credit Permits was developed in the proposed rule for the Southern Water Use Caution Area which was challenged and never became effective. While meetings between staff of Public Works and the Southwest Florida Water Management District, Venice Service Office, have indicated that they would entertain providing such a system of credit even outside of rule authorization, they have also indicated that the concept would have to go to the governing board and be done through some sort of permit modification. I have therefore rewritten Section 1.b)(1) to provide for the County receiving some sort of credit outside the Groundwater Withdrawal Credit Permit concept.
- (2) I have trouble with the concept of an agreement which will be executed, most probably, in June of this year having an effective date of December 1, 1997. In discussions with Ed McAdam, it appears the only reason for this effective date is

Office of County Attorney  
1112 Manatee Avenue West, Suite 969, P.O. Box 1000, Bradenton, FL 34206

Lenox E. Bramble  
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that you wish to give Mt. Vernon the reduced rate structure for quantities of water they have purchased since December 1st when the Board authorized a more favorable rate structure. This being the case, it would seem more straight forward to include the amount of a credit which they are entitled to in the section on costs.

This agreement was originally designed to be used for agricultural operations. Given that we are beginning to use it for more association-type property, several of the paragraphs appear to be inapplicable. Paragraphs such as paragraph 9 which anticipate the sale or lease off of vacant land would appear to be able to be removed from the agreement given that we are dealing with landscaped common property which cannot so easily be disposed of. Also, a standard paragraph regarding land use approvals would no longer appear to be necessary.

If I can be of any further assistance, please feel free to contact me.

JNS/kc/tlm  
attachment

cc: Ernie Padgett, County Administrator  
✓ Ed McAdam, P.E., Wastewater Division Manager, Public Works Department

