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January 26, 2000

BY HAND DELIVERY

Blanca Bayo
Director, Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Intercoastal Utilities, Inc.
Docket No. 992040-WS

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of the Petition For Intervention and Motion to Dismiss to be filed by St. Johns County in the above cited docket.

Very truly yours,

David Filar
Legal Assistant for Suzanne Brownless
Attorney for St. Johns County

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application For An Amendment of Certificate For An Extension of Territory and For An Original Water and Wastewater Certificate (for a utility in existence and charging for service).
_____/

DOCKET NO. 992040-WS

PETITION FOR INTERVENTION AND MOTION TO DISMISS

COMES NOW, St. Johns County, Florida (County), a political subdivision of the State of Florida, pursuant to Rules 28-106.204 and 25-22.039, F.A.C., by and through its undersigned attorney, request that it be allowed to intervene in this proceeding for the limited purpose of filing a motion to dismiss on the following grounds: (i) lack of subject matter jurisdiction of the Florida Public Service Commission (FPSC) over Intercoastal Utilities, Inc.'s (ICU) application for original certificate and extension of service territory and (ii) that ICU is collaterally estopped from pursuing this application, and in support thereof states as follows:

PETITION FOR INTERVENTION

Petitioner

1. The name, address and telephone number of the petitioner is:

St. Johns County
c/o James G. Sisco, County Attorney
St. Johns County Attorney Office
P. O. Box 1533
St. Augustine, Florida 32085
Phone; (904) 823-2458

Representative to receive notices and pleadings

2. The name, address and telephone number of the petitioner's representative who is authorized to receive service

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and all notices and pleadings during the course of this proceeding is:

Suzanne Brownless, Esq.
Suzanne Brownless, P.A.
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301
Phone: (850) 877-5200

Substantial Interest

3. The petitioner is a political subdivision of the State of Florida who is authorized by Resolution 89-214, adopted by the Board of County Commissioners of St. Johns County, Florida (Board) on September 26, 1989, pursuant to §367.171(1), Florida Statutes, to regulate the water and wastewater utilities within St. Johns County. [Attachment A].

4. In order to perform its regulatory duties, the Board created the St. Johns County Water and Sewer Authority (Authority) by enactment of the St. Johns County Water and Sewer Utilities Regulatory Ordinance, Ordinance No. 89-63.[1] Decisions of the Authority regarding service territory extensions are preliminary and do not become final and binding until approved by the Board. §§17 3/4-206; 17 3/4-223(a).

5. On March 9, 1999, Intercoastal Utilities, Inc. (ICU) submitted its application to the Authority for extension of its St. Johns County Certificates Nos. 13 and 14 in order to provide water and sewer service to an area of approximately 25,000 acres located west and southwest of the Intercoastal Waterway. Pursuant to St.

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[1] This Ordinance has been codified as §§ 17 3/4-201 through 17 3/4-231 of the St. Johns County Code.

Johns County Water and Sewer Authority Rules 1.5(2) and 11.1 (Rules), DDI, Inc. and Estuary Corporation (DDI); JEA; St. Johns County Utility Department (Utility Department), United Water Florida, Inc. and Hines Interests Limited Partnership all filed timely objections to Intercoastal's application and requests for hearing on April 6, March 30, April 8 (United and County) and April 7, 1999, respectively.

6. The Authority conducted evidentiary hearings on ICU's extension application on June 2, 4, 11, 18, 19 and 23, 1999. At these hearings the Authority heard the testimony of 19 witnesses and admitted 44 exhibits into evidence. Proposed Preliminary Orders were timely filed by the Utility Department and JEA; Proposed Findings of Fact, Conclusions of Law and Preliminary Order was timely filed by DDI; and Proposed Recommended Order was timely filed by Intercoastal on July 19, 1999.

7. On August 4, 1999, the Authority met at a properly noticed public meeting and voted to deny ICU's request for extension of its certificated water and sewer service territories. The Authority's Preliminary Order 99-00012, issued on August 6, 1999, memorializes that vote and is provided as Attachment B to this document and incorporated herein by reference.

8. On September 7, 1999, the Board of County Commissioners of St. Johns County, Florida (Board) issued Order 99-00015, a final order confirming the Authority's Preliminary Order 99-00012 which denied ICU's application for extension of water and wastewater service territories. A copy of Board Order 99-00015 is provided as

Attachment C and incorporated herein by reference.

9. The water and wastewater service areas in St. Johns County for which ICU is requesting original certificates to operate a water and wastewater utility in existence in this docket can be divided into two sections. The first section is comprised of exactly the same water and wastewater service territories covered by Certificates 13 and 14 issued by the Authority. The second section is partially comprised of exactly the same water and wastewater service areas in St. Johns County which ICU sought to add to its existing service territories by its March 9, 1999 application to the Authority. This second section also includes water and wastewater service areas in Duval County for which Nocatee Utility Corporation is currently seeking an original certificate in Docket No. 990696-WS.

10. Included in this second "extension" section are the Walden Chase Development and Allen Nease High School. The County is currently obligated to provide water and wastewater services to these entities pursuant to executed contracts for service, which are Attachments D and E to this petition and are incorporated herein by reference.

11. The areas for which ICU is seeking certification in which it does not currently provide service pursuant to Authority Certificates 13 and 14, are also classified as either Designated or Exclusive Service Areas under County Ordinance 99-36, the St. Johns County Water and Wastewater Service Area Ordinance, effective May 19, 1999. County Ordinance 99-36 is found in Attachment F and is

incorporated herein by reference. In Exclusive Service Areas, the County is obligated to provide service; in Designated Service Areas the County has the right to provide service itself or to designate the provider through the Authority's certificate application process. County Ordinance 99-36, Sec. 5, 6, and 7. The Walden Chase Development and Allen Nease High School are within the County's Exclusive Service Area.

12. Thus, the County's substantial interests are affected by ICU's application in two ways. First, this application is an attempt to circumvent the legitimate, statutory authority of the County to regulate private water and wastewater utilities in St. Johns County in general, and ICU in particular. Second, ICU is seeking through this application to serve areas which the County is currently obligated to serve both by Ordinance 99-36 and by contract. The issuance by the Commission of an original certificate and extension of service territory located both in St. Johns and Duval Counties will directly impact the County's ability to provide timely, adequate and reliable service to the Walden Chase Development and Allen Nease High Schools in violation of its contracts, Ordinance 99-36, Florida Constitutional[2] and statutory law[3] and Florida case law.[4]

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[2] Article VIII, s. 1(f), Fla. Const.

[3] The County has the inherent right to provide water and wastewater services to the unincorporated areas of the County by virtue of §125.01(1)(k)1, Florida Statutes, which states: "Provide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs."

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Notice

13. The petitioner received notice of ICU's application for original water and wastewater service territories and extension of water and wastewater service territories by mail addressed to the St. Johns County Clerk's Office on January 3, 2000.

WHEREFORE, based upon the facts stated above which substantiate that the County's substantial interests will be adversely and substantially affected by any decision in this docket, the County requests that it be allowed to intervene in this proceeding for the limited purpose of contesting the jurisdiction of the FPSC over ICU in this docket.

MOTION TO DISMISS

14. Pursuant to Rule 28-106.204, F.A.C., the County moves this Commission to dismiss ICU's application for certification of an existing water and wastewater utility and for an extension of service territory on the grounds that: (i) the Commission lacks subject matter jurisdiction over ICU, and (ii) that ICU is collaterally estopped from filing this application at the FPSC, and in support thereof states as follows:

15. Paragraphs 3 through 11 are incorporated herein.

Lack of subject matter jurisdiction

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[4] City of Mount Dora v. JJ's Mobile Homes, Inc., 579 So.2d 219, 225 (Fla. 5th DCA 1991)("The right (franchise) to provide utility services to the public carries a concomitant duty to promptly and efficiently provide those same services."); Lake Utility Services, Inc. v. City of Clermont, 727 So.2d 984, 991 (Fla. 5th DCA 1999)("Although Clermont acquired a right to provide water service to the subject area first, its failure to exercise its concomitant duty to promptly and efficiently provide those services resulted in a waiver of the right to do so.")

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16. ICU is seeking certification as an existing water and wastewater utility pursuant to §367.171(7), Florida Statutes, which states:

> Notwithstanding anything in this section to the contrary, the commission shall have exclusive jurisdiction over all utility systems whose service transverses county boundaries, whether the counties involved are jurisdictional or nonjurisdictional, except for utility systems that are subject to, and remain subject to, interlocal utility agreements in effect as of January 1, 1991, that create a single governmental authority to regulate the utility systems whose service transverses county boundaries, provided that no such interlocal agreement shall divest commission jurisdiction over such systems, any portion of which provides service within a county that is subject to commission jurisdiction under this section.

[Emphasis added.]

17. The issue presented in this case is whether the FPSC has jurisdiction to award service territory in a nonjurisdictional county by operation of §367.171(7), Florida Statutes, where the county has already denied the utility's request to provide service to that identical territory.

18. This is an issue of first impression. The FPSC and circuit courts have upheld the FPSC's jurisdiction to expand investor-owned service territories **in FPSC jurisdictional counties.** City of Sunrise v. South Broward Utility, Inc., 684 So.2d 1369 (Fla. 4th DCA 1996)(Upholding the decision of the Broward County Circuit Court granting South Broward's motion to dismiss Sunrises' declaratory judgment petition for lack of subject matter jurisdiction); In re: Application for amendment of Certificates

Nos. 359-W and 290-S to add territory in Broward County by South Broward Utility, Inc., Docket No. 941121-WS, Order No. PSC-96-1137-FOF-WS, issued on September 10, 1996; 96 FPSC 9:191 (Granting South Broward Utility the right to serve the disputed area and denying Sunrise's motion to dismiss.); City of Sunrise v. South Broward Utility, Inc. and Public Service Commission, 698 So.2d 1226 (Fla. 1st DCA 1997)(Upholding the FPSC's decision granting South Broward's request for additional service territory in Order No. PSC-96-1137-FOF-WS).

19. The Courts have also addressed the definition of "functional relatedness" as the determinate of FPSC jurisdiction under §367.171(7), Florida Statutes. In Board of County Commissioners v. Beard (Beard), 601 So.2d 590, 592-3 (Fla. 1st DCA 1992), the Court upheld the decision of the FPSC that Jacksonville Suburban Utilities Corporation (JSUC) was subject to FPSC jurisdiction because the separate water and sewer systems it operated in Nassau, Duval and St. Johns counties were "administratively and operationally" interrelated, although lacking physical interconnection that "transversed" county boundaries. At odds with this decision is the First District's later opinion in Hernando County v. Florida Public Service Commission, 685 So.2d 48, 52 (Fla. 1st DCA 1996), in which the Court found that in order to be jurisdictional, a utility "system" had to deliver utility services (actual water and wastewater) over a physical interconnection that crossed contiguous county boundaries. In short, the Court reversed its decision in Beard. The "tension"

between these two decisions is noted in Southern States Utilities v. Florida Public Service Commission, 714 So.2d 1046, 1050 n.1 (Fla. 1st DCA 1998), but not addressed by the Court since FPSC jurisdiction was not at issue in the case.

20. The statutory scheme under §367.171, Florida Statutes, is clear. A county is classified as either "jurisdictional" or "nonjurisdictional". If "jurisdictional" the FPSC regulates the rates, charges and services of all investor-owned utilities. If "nonjurisdictional", the county regulates the rates, charges and services of all investor-owned utilities. Beard, 685 So.2d at 49; §367.171(1), Florida Statutes. Although not specifically granted by statutory authority, the ability to certificate service territory is integral to the ability of either the County or the FPSC to regulate a utility's service.

21. Under the regulatory scheme set forth in §367.171, Florida Statutes, in a nonjurisdictional county the county determines the regulatory policies which it will follow with two exceptions. First, the county must adopt and follow as minimum standards of regulation the provisions of §367.081, Florida Statutes, (rates) except for §§367.081(4)(a)(price indexing) and 367.082 (interim rates), Florida Statutes. §367.171(6), Florida Statutes. Second, the county cannot regulate utilities exempt under §367.022(2), Florida Statutes, i.e., utilities which are owned, operated, managed or controlled by governmental authorities. §367.171(8). All other regulatory issues are left to the counties.

22. The ability of a nonjurisdictional County pursuant to

§367.171, Florida Statutes, to award service territories pursuant to its own regulatory scheme, and thus to regulate in accord with its own regulatory policies, is defeated if the FPSC is given jurisdiction over awarding service territories to existing utilities in nonjurisdictional counties. Stated simply, if the statute is interpreted in this manner, the jurisdiction of the FPSC to award service territories and the franchises associated with those service areas would trump the jurisdiction of the County to do the same and the franchises legitimately issued pursuant to that jurisdiction.

23. Florida case law is clear that in jurisdictional counties the franchise rights awarded by the FPSC are equal to, not superior to, that of local governments under the regulatory scheme of Chapters 180, 125, and 367, Florida Statutes. The Fifth Circuit in City of Mount Dora v. JJ's Mobile Homes, Inc., 579 So.2d 219, 225 (Fla. 5th DCA 1991), states this concept succinctly:

> In Florida the basis for the right of both governmental or private entities to provide utility services to the public is statutory and the franchise right of each is equal and neither entity is, per se, superior or inferior to the other.

[Emphasis added.]

24. This concept is reiterated in Lake Utility Services, Inc. v. City of Clermont, 727 So.2d 984, 988 (Fla. 5th DCA 1999), in which the Fifth District agreed with the lower court's finding that: "Neither entity [FPSC or municipality] has authority over the other, and neither entity may interfere with franchise zones created by the other."

25. Likewise, the jurisdictional right of the County to regulate the service territories of the utilities within its borders is equal to, not inferior to, the right of the FPSC to regulate service territories of private utilities within jurisdictional counties.

26. ICU presents the textbook case why §367.171(7), Florida Statutes, must be interpreted as limiting the ability of the FPSC to award additional service territory in nonjurisdictional counties. Here ICU is requesting that it be allowed to expand its existing service territory by **23,900 acres**, an expansion of its existing service area by **400%, 92% (21,900 acres) of which is located in St. Johns County.** [ICU's Application at 10]. This service area includes virtually all of St. Johns County that is not currently being served by local governments or existing private utilities. Should the FPSC assert jurisdiction and grant ICU's application, all available water and wastewater service territory in St. Johns County will be thereby usurped. This is clearly contrary to the express right of the County under §367.171(1), Florida Statutes, to assert its own regulatory jurisdiction and to reject FPSC regulatory jurisdiction over its water and wastewater utilities.

27. Statutes must be interpreted in their totality and in the context of the chapter and section in which they appear, i.e, "in pari materia". Central Truck Lines, Inc. v. Railroad Comm., 118 Fla. 526, 160 So. 22 (Fla. 1935)(The Court determined that all of the statutes dealing with trucking and railroad regulation must be

read *in pari materia* since they dealt with the subject of transportation in intrastate commerce.)(Peninsular Industrial Insurance Co. v. State, 61 Fla. 376, 377; 55 So. 398 (Fla. 1911)("The language used in a statute should be construed as an entirety and with reference to the purpose of the law as shown by all enactments on the subject.").

28. When statutes conflict, courts favor a construction that harmonizes and reconciles the statutes, giving a field of operation and effect to each rather than construe one statute as being meaningless or repealed by implication. Oldham v. Rooks, 361 So.2d 140, 143 (Fla. 1978). Likewise, courts will read provisions of an act as consistent with one another, rather than in conflict, if there is any reasonable basis for consistency. State v. Putnam County Development Authority, 249 So.2d 6, 10 (Fla. 1971). Thus, a construction is favored which gives effect to every clause and part of a statute in order to produce a consistent and harmonious whole. Vocelle v. Knight Brothers Paper Co., 118 So.2d 664, 667 (Fla. 1st DCA 1960). Additionally, when the words of a statute are plain and unambiguous, the courts must give them their common meaning, i.e., court must follow a clear statement of law. Id.

29. It is clear that a utility located in a nonjurisdictional county must apply to the county for permission to expand its service territory - exactly the action that ICU took in the instant case. By the enactment of §367.171(7), Florida Statutes, the Legislature was attempting to ensure that utility systems whose

service transverses county boundaries were not subject to two jurisdictions and thereby subject to two sets of potentially conflicting regulations: those of the FPSC and a nonjurisdictional county or those of two nonjurisdictional counties.

30. This legislative intent is revealed by the exception contained in §367.171(7), Florida Statutes: "except for utility systems that are subject to, and remain subject to, interlocal utility agreements in effect as of January 1, 1991, that create a single governmental authority to regulate the utility systems whose service transverses county boundaries." [Emphasis added.]

31. Section 367.171(7), Florida Statutes, was enacted to address a specific factual scenario: an investor-owned utility whose **existing facilities** transversed county boundaries caught in a jurisdictional fight between two counties each seeking control over the whole system, i.e. General Development Utilities (GDU). The **statute was not intended to be applied to existing utilities in nonjurisdictional counties seeking to circumvent adverse County regulatory rulings by creating a new service area** with only just enough service area in the second county to pass the "straight face test" for FPSC intercounty jurisdiction.

32. The only way that the plain meaning[5] of §367.171(1), Florida Statutes, granting St. Johns County the right to regulate water and wastewater utilities within its county boundaries by controlling the service area in which those utilities provide service, can be harmonized with the intercounty jurisdiction of the

[5] Plain meaning definition

FPSC granted by §367.171(7), Florida Statutes, is to limit the jurisdiction of the FPSC to award additional service territory to intercounty utilities to service areas located within jurisdictional counties.

33. This interpretation of §§367.171(1) and 367.171(7), Florida Statutes, reconciles the equal right of the County to exercise its jurisdiction over intracounty utilities by assigning service territories with the right of the FPSC to exercise jurisdiction over intercounty water and wastewater utilities. Interpreting the FPSC's jurisdiction to allow the FPSC to assign service territories within nonjurisdictional counties to intercounty utilities extinguishes the right of counties to regulate utilities which operate totally within each county contrary to the plain meaning of §§125.01(1)(k), 367.171(1), Florida Statutes, and the County's Constitutional rights granted by Article VIII, s. 1(f). This expansive interpretation of the FPSC's jurisdiction is contrary to the statutory construction principles of *in pari materia*, plain meaning and harmony and must fail.

WHEREFORE, St. Johns County, Florida, requests that the FPSC dismiss the application of Intercoastal Utilities, Inc. for an original certificate and extension of service area in St. Johns County, Florida for lack of subject matter jurisdiction.

Res judicata and collateral estoppel

34. Res judicata is the legal concept that the final judgment in a previous suit on the same cause of action is conclusive on all matters germane to that cause of action that could have been raised

in the first action. Collateral estoppel applies in instances where there are two different causes of action. The legal concept applied in that instance is that a party should not be able to relitigate the same issues and questions common to both causes of action twice. 32 Fla.Jur.2d, Judgments and Decrees, §135.

35. Courts have applied the principles of res judicata and collateral estoppel to administrative proceedings. Doheny v. Grove Isle, Ltd., 442 So.2d 966, 975 (Fla. 1st DCA 1983). In administrative cases, these principles will be applied as long as the second application is not supported by new facts, changed conditions, or additional submissions by the applicant. Coral Reef Nurseries, Inc. v. Babcock, Co., 410 So.2d 648, 655 (Fla. 3d DCA 1982).

36. St. Johns agrees with DDI, Inc. and Nocatee Utility Corporation (Nocatee) that there are no new circumstances or changed conditions in this case to distinguish it from that filed, and extensively litigated, before the Authority in June of last year.

37. The 24,900 acres which ICU is seeking to add to its service territory in St. Johns County is exactly the same 24,900 acres which the Authority and the Board denied ICU the ability to serve after extensive hearings. Just as in June of last year, none of the known developments in the "extension" service area (Nocatee, Walden Chase nor Allen Nease High School) want to be served by, and have not requested service from, ICU. [ICU Application at 11].

38. Nothing on ICU's side has changed. However, the County,

JEA, and the Walden Chase developers have all invested significant time and money fulfilling ordinance and contractual obligations to provide adequate, reliable and timely water and wastewater services to both the planned Walden Chase development and Allen Nease High School.

39. The only change that ICU can point to in this application is the addition of service area in Duval County which was added in an attempt to invoke FPSC §367.171, Florida Statutes, jurisdiction and thereby avoid the Board's adverse ruling in Board Order 99-00015. The appropriate action for ICU to take to contest the Board's decision in Order 99-00015 is to file a writ of certiorari in St. Johns County circuit court contesting Order 99-00015. ICU has done so. As a result of that process, ICU will receive whatever relief, if any, it is entitled to for whatever wrongs were committed by the Authority or the Board in denying its request for the service territory in St. Johns County at issue here.

40. The principles of collateral estoppel and res judicata are appropriate and should be applied in this instance to prevent ICU from profiting from blatant forum shopping and an attempt to relitigate a cause it has already litigated and lost.

WHEREFORE, St. Johns County, Florida, requests that the FPSC dismiss the application of Intercoastal Utilities, Inc. for an original certificate and extension of service area in St. Johns County, Florida on the grounds that Intercoastal Utilities, Inc. is collaterally estopped from applying to the FPSC for an extension of service territory in St. Johns and Duval Counties.

Suzanne Brownless, P. A., 1311-B Paul Russell Road, Suite 201, Tallahassee, Florida 32301

Respectfully submitted this 26th day of January, 2000 by:

Suzanne Brownless, Esq.
Fla. Bar No. 309591
Suzanne Brownless, P.A.
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301
Phone: (850) 877-5200
FAX: (850) 898-0090

ATTORNEYS FOR ST. JOHNS COUNTY, FLORIDA

CERTIFICATE OF SERVICE

I HEREBY certify that the foregoing Petition For Intervention and Motion to Dismiss has been provided by U.S. Mail or Hand Delivery (*) on January 26, 2000, to the following persons:

Richard D. Melson, Esq.
Hopping Green Sams & Smith, P.A.
P.O. Box 6526
Tallahassee, Florida 32314-6526

*Samantha Cibula, Esq.
Legal Division
Florida Public Service Comm.
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Mr. Bill Young, Director
St. Johns County Utility Department
P.O. Drawer 3006
St. Augustine, Florida 32085

John L. Wharton, Esq.
Rose Law Firm
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

J. Stephen Menton, Esq.
Rutledge, Ecenia Law Firm
215 South Monroe Street
Suite 420
Tallahassee, Florida 32301

Suzanne Brownless, Esq.

c: 3022

333-WWW

RESOLUTION 89-214

A RESOLUTION RESCINDING JURISDICTION OF THE PUBLIC SERVICE COMMISSION OVER PRIVATE WATER AND SEWER UTILITIES WITHIN ST. JOHNS COUNTY

WHEREAS, the Board of County Commissioners of St. Johns County, Florida (the "Board") makes the following determinations:

1. On July 25, 1985, the Board adopted resolution #85-106 declaring that St. Johns County is subject to the provisions of Chapter 367, Florida Statutes, thereby establishing the jurisdiction of the Florida Public Service Commission over private water and sewer utilities within St. Johns County.

2. The interests of the citizens of St. Johns County will be better served by regulating private water and sewer utilities at the local level.

3. Section 367.171 Florida Statutes provides that a county after four continuous years under the jurisdiction of the Public Service Commission may by resolution or ordinance rescind any prior resolution or ordinance imposing Public Service Commission jurisdiction and thereby assume County jurisdiction over private water and sewer utilities.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, that pursuant to Section 367.171 Florida Statutes, resolution #85-106, adopted on July 25, 1985, establishing the jursidiction of the Public Service Commission over private water and sewer utilities in St. Johns County is hereby rescinded.

BE IT FURTHER RESOLVED that the Clerk shall immediately notify the Public Service Commission of the adoption of this resolution and shall mail a certified copy of this resolution to the Public Service Commission forthwith.

333-XXX

ATTACHMENT A

PASSED AND DULY ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 26th day of September, 1989.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: _____
Its Chairman

ATTEST:

_____
Carl "Bud" Markel, Clerk

333-YYY

FACSIMILE COPY COVER SHEET

Fax Number: 904-823-2507
Phone Number: 904-823-2501

Date: 5/3/99

To: Suzanne Brownless for Suzanne Summerlin

Fax Number: 850-878-0090

From: George Flint

Please find following a total of _____ pages, including cover sheet. If you have any questions, please call me at the above telephone number.

Special Instructions:

337-222

BEFORE THE ST. JOHNS COUNTY WATER AND SEWER AUTHORITY

DOCKET NO.: 99-0007-0002-0006
ORDER NO. 99-00012

In re: Application of Intercoastal Utilities, Inc. for Amendment of Certificate to Include Additional Territory

PRELIMINARY ORDER DENYING APPLICATION TO AMEND FRANCHISE CERTIFICATES 13 AND 14

This matter was heard on June 2, 4, 11, 18, 19 and 23, and August 4, 1999 in St. Augustine, Florida, before St. Johns County Water and Sewer Authority Chairman Kenneth Forrester, and Authority members Rita Friedman and William Webster.

APPEARANCES

For Intercoastal Utilities, Inc.:	John L. Wharton, Esq. 2548 Blairstone Pines Drive Tallahassee, Florida 32301
For DDI, Inc. and Estuary Corporation:	Richard D. Melson, Esq. 123 South Calhoun Street Tallahassee, Florida 32314
For St. Johns County Utility Department:	Suzanne Brownless, Esq. 1311 B Paul Russell Rd., Ste. 201 Tallahassee, Florida 32301
For JEA:	Kenneth A. Hoffman, Esq. 215 South Monroe Street, Ste. 420 Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

The issue is whether Intercoastal Utilities, Inc.'s application for extension of Franchise Certificates Nos. 13 and 14 should be granted?

PRELIMINARY STATEMENT

This proceeding involves the application of Intercoastal Utilities, Inc. ("Intercoastal") for an expansion of its current certificated territory, all of which lies east of the Intercoastal Waterway, to include an additional 25,000 acres lying west of the waterway. On March 9,

1999 Intercoastal submitted its application for extension of Certificates Nos. 13 and 14 in order to provide water and sewer service to an area of approximately 25,000 acres located west and southwest of the Intercoastal Waterway. Pursuant to St. Johns County Water and Sewer Authority Rules 1.5(2) and 11.1 (Rules), DDI, Inc. and Estuary Corporation (DDI); JEA; St. Johns County Utility Department (Utility Department), United Water Florida, Inc. and Hines Interests Limited Partnership all filed timely objections to Intercoastal's application and requests for hearing on April 6, March 30, April 8 (United and county) and April 7, 1999, respectively. Each of the Intervenors is a participant in one or more alternative proposals to serve some portion of the proposed territory included in Intercoastal's application. Intercoastal has not challenged the standing of any of the Intervenors to participate as a party to this proceeding.

On April 7, 1999, the Authority requested that the Board grant an extension until May 5, 1999, to hold the evidentiary hearing on Intercoastal's application. The Authority subsequently revised this request for an extension until June 2, 1999. This revised request was granted by the board on April 14, 1999. Along with its April 8th Objection to and Request for Hearing, United also filed a Motion to Dismiss, or in the alternative, Motion for Stay or Abatement. Intercoastal filed its Response to the Motions to Dismiss and for Abatement or Stay on April 21, 1999.

On May 13, 1999, DDI filed an Emergency Motion for Discovery; Intercoastal filed its response to the Motion on May 20, 1999; and DDI filed its Reply on May 21, 1999. The Motion for Discovery was heard before the Authority on May 24, 1999, and was denied. On May 25, 1999, Intercoastal filed its Motion for Disqualification of the Authority and the Board of County Commissioners of St. Johns County (Board). The Utility Department filed its Response to the Motion for disqualification on May 27, 1999. This matter was heard by the Authority on the first day of the hearing, June 2, 1999, and denied as to the Authority. On June 1, 1999 United withdrew its Objection, Motion to Dismiss and Motion for Stay or Abatement.

At the final hearing, Intercoastal presented the testimony of the following witnesses:

(1) Sumner Waitz (direct and rebuttal), who was accepted as an expert in water and wastewater engineering and regulatory compliance;

(2) Michael Burton (direct and rebuttal), who was accepted as an expert inutility rates and ratemaking;

(3) M. L. Forrester (direct and rebuttal), who was accepted as an expert in utility operations, utility planning, utility management, and rate setting matters;

(4) Andrew Campbell (direct and rebuttal), who was accepted as an expert in the St. Johns County Comprehensive Plan;

(5) H.R. James (direct and rebuttal), who was accepted as an expert in utility operations;

(6) Andrew Hogshead (direct), who was accepted as an expert in banking;

(7) Hughie James (rebuttal); and

(8) Marshall Deterding (rebuttal).

DDI presented the testimony of the following witnesses:

(1) Roger M. O'Steen, who was accepted as an expert in land development, particularly as it relates to utility matters; and

(2) Douglas C. Miller, who was accepted as an expert in water and sewer utility master planning.

The Utility Department presented the testimony of the following witnesses:

(1) Donald E. Maurer, who was accepted as an expert in water and sewer utility system design engineering and planning and the water and sewer infrastructure elements of the St. Johns County Comprehensive Plan; and

(2) William G. Young, who was accepted as an expert in utility operations, utility management, and utility planning for the St. Johns County Utility.

JEA presented the testimony of the following witnesses:

(1) Scott Kelly, who was accepted as an expert in water and wastewater systems design, construction, operations and engineering.

(2) Tim Perkins, who was accepted as an expert in water and wastewater environmental permitting and water resource regulation.

The Authority took testimony from the engineering consultant to its staff, Gerald C. Hartman. The Authority also took public testimony from the following persons who were not interveners in the case: Michael Korn, Richard Olson, Edward Cordova and Gail Warnerberg. Mr. Korn's testimony was given on behalf of the Sawgrass Association. The Authority accepted into evidence the following exhibits:

(1) Intercoastal Exhibit Nos. 1-16;

(2) DDI Exhibit Nos. 1-6;

(3) JEA Exhibit Nos. 1-7;

(4) Utility Department Exhibit Nos. 1-11;

(5) Staff Exhibit No. 1; and

(6) Sawgrass Association Exhibits Nos. 1-3.

During the course of the proceeding, the Authority heard substantial amounts of both expert and non-expert testimony. It also heard substantial amounts of testimony that was based on speculation and hearsay. In making the following findings of fact, the Authority has judged the credibility and expertise of the various witnesses and has given the testimony and other evidence the weight which it deems appropriate. The following findings of fact are based on the greater weight of the credible evidence of record, and the inferences that the Authority has reasonably drawn from that evidence.

By agreement of the parties, the time for filing Proposed Preliminary Orders was extended to July 19, 1999. The same were filed by all parties, and they have been considered in the preparation of this Preliminary Order.

FINDINGS OF FACT

Based upon all of the evidence, the following findings of fact are determined:

A. The Parties

1. The Applicant, Intercoastal Utilities, Inc., is an investor-owned water and wastewater utility regulated by the St. Johns Water and Sewer Authority whose current

service territory is bounded on the west by the Intercoastal Waterway and encompasses approximately 4,500 acres. Intercoastal's operating agent is Jax Utilities Management, Inc. (JUM), a 25-year old consulting firm, whose "lead owner" is Mr. H. R. James, a shareholder in Intercoastal. Intercoastal purchased the utility facilities of the developer of the Sawgrass development in approximately 1983. Intercoastal currently provides water and wastewater service to approximately 3,400 water customers and 3,000 sewer customers in northeast St. Johns County pursuant to Water Franchise Certificate No. 13 and Wastewater Franchise Certificate No. 14 issued by the county. Intercoastal's existing customer base is primarily single-family and condo/apartment communities, with limited non-residential areas.

2. JEA is a municipal utility regulated by a governing board providing water and sewer utility services in Duval and Clay Counties to approximately 180,000 water and 135,000 sewer accounts. JEA serves these customers through an interconnected grid which unites 34 water plants and 5 wastewater plants in a regionalized-type system.

3. The St. Johns County Utility Department provides water and/or wastewater services to approximately 35,000 residents within St. Johns County which equates to approximately 18,000 ERCs for water and 12,000 ERCs for sewer. St. Johns County has four water plants and five wastewater plants currently operating within the County.

4. DDI is a private corporation controlled by the Davis family which owns and is developing Nocatee. DDI has filed an application with the Florida Public Service Commission (FPSC) to establish the Nocatee Utility Company. The Nocatee Utility Company would provide water and sewer utility services through a wholesale agreement with JEA. The Nocatee subdivision is located in two counties, Duval and St. Johns, and consists of approximately 15,000 acres with all but 2,200 acres located in St. Johns County. Nocatee will have about 14,000 residential units and several million square feet of commercial properties.

B. Requested Territory

5. During the course of this proceeding, three developments were identified in the Territory Expansion Area as potentially needing service within the near future. These developments are: (1) Marsh Harbor; (2) Walden Chase; and (3) Nocatee. Of the three, only Walden Chase and Nocatee appear to be moving forward and both of them have made concrete plans for long-term, environmentally safe service without Intercoastal's involvement.

(1) Marsh Harbor.

6. The proposed Marsh Harbor Development includes only 65 single family residences.

7. The developer of Marsh Harbor apparently contacted Intercoastal in 1996 to inquire about the possibility of obtaining service. After Intercoaastal provided information to the developer regarding the cost of providing service, Marsh Harbor did not pursue an agreement. There is no evidence that there is a current need for service.

8. St. Johns County has enacted an ordinance, Ordinance Number 99-36, which designates and reserves certain portions of the Territory Expansion Area as part of the County's "exclusive service area." The ordinance designates two types of service areas: Exclusive Service Areas for the Utility Department (areas that are currently served or anticipated to be served by the County and which the County has an obligation to serve) and designated service areas (areas where the county reserves the ability to designate others to serve). Marsh Harbor is included within the County's exclusive service area. Because Marsh Harbor has been identified as an exclusive service area, the County is obligated to provide service to that development.

9. The Utility Department has had some discussions with the developer of Marsh Harbor, but at this time there is no request for service pending.

(2) Walden Chase.

10. The Walden Chase subdivision is located at the northeast portion of the intersection of U.S. 1 and CR 210. It is likely that Walden Chase will be the first development in the requested territory to need service.

11. Walden Chase is part of the Exclusive Service Area designated by the County Ordinance. The developer of this subdivision has entered into an agreement with the County for water and wastewater service.

12. The County intends to meet its obligations to Walden Chase through a wholesale agreement with JEA (the "County/JEA Agreement") pursuant to which JEA will provide both water and wastewater service to certain portions of northern St. Johns County specifically including Walden Chase.

13. Walden Chase includes 585 proposed single family units. Walden Chase includes commercial customers as well. Thus, there will be a need to meet commercial fire flow requirements in order to serve Walden Chase. The County/JEA Agreement will enable the Utility Department to meet these requirements.

14. The developer of Walden Chase has indicated that it may need service as early as October 1999.

(3) Nocatee.

15. DDI is the owner of approximately 25,000 acres of land in St. Johns County and approximately 25,000 acres of land in Duval County. Approximately 90% of the requested territory consists of land owned by DDI or its affiliates.

16 Intercoastal's Application for expansion of its water and wastewater franchise includes substantially all of the 25,000 acres owned by DDI in St. Johns County. DDI has never requested service from Intercoastal for any portion of its property. Indeed, DDI's representative specifically requested Intercoastal to not proceed with the Application.

17. DDI is planning a multi-use development of 15,000 acres consisting of 12,800 acres in St. Johns County and 2,200 acres in Duval County. This development, known as "Nocatee," is planned to be built in five phases with each phase taking an estimated 5 years with total anticipated build-out time of 25 years.

18. DDI has no plans to develop the 12,000 plus acres of property it owns in St. Johns County which is not part of Nocatee. Thus, there is currently no need for service in this vast portion of the requested territory.

19. Due to its size, Nocatee will be reviewed and permitted as a Development of Regional Impact ("DRI"). As a DRI, Nocatee will be required to comply with the applicable provisions of the local comprehensive plans.

20. Nocatee spans the St. Johns/Duval County Line. Approximately 12,800 acres in St. Johns County.

21. Nocatee will be developed in five phases, with each phase lasting about five years, for a total development horizon of about 25 years. Based on current permitting plans, development within Phase I will require water, wastewater and reuse service in 2002.

22. The entire approximately 2,200 acre Duval County portion of Nocatee is included in Phase I of the development.

C. Intercoastal's Plan of Service

23. Beginning with its application and throughout the course of the hearing, Intercoastal proposed a plan for service to the entire requested service area, not for a portion thereof.

24. Intercoastal's existing service area is entirely on the east side of the Intercoastal Waterway. The proposed territory to be served is entirely west of the waterway. Intercoastal has two water treatment facilities with an average daily flow

capacity of 2.67 mgd and one wastewater treatment facility with a capacity of 0.80 mgd. The flows at Intercoastal's wastewater treatment plant exceed its current capacity.

25. In preparing its plan of service for the Territory Expansion Area, Intercoastal was not responding to any requests for service and did not obtain any information regarding the needs of the owners of the specific properties or developments in the area.

26. At the hearing, there was confusion as to exactly how Intercoastal intended to serve the new territory. Indeed, as discussed below, Intercoastal's plan has changed several times.

27. On April 22, 1999, Intercoastal submitted prefiled testimony before the FPSC in opposition to the territory expansion request of United Water Florida, Inc. for portions of the proposed new territory. In that testimony, Intercoastal indicated that its initial service to the disputed area would be provided through a wholesale/partnership with JEA. Intercoastal's plan to enter into a wholesale arrangement with JEA was abandoned after JEA signed agreements with the county and with DDI. At this time, Intercoastal is not pursuing any further negotiations with JEA.

28. As part of its application to the Authority, Intercoastal proposed to construct water and wastewater transmission and distribution lines across the Intercoastal Waterway to the eastern edge of the Walden Chase development at a cost of $1.4 million dollars. This plan was a 10 inch, two-pipe plan and did not include a reuse line. The cost of both the 10-inch water and sewer mains was estimated at $1.4 million dollars.

29. Intercoastal's Application references its intent to "employ a separate non-potable water transmission and distribution system to supply the irrigation and fire protection needs of future customers in the requested territory." In the Summary Report submitted by Intercoastal's consulting engineer, Mr. Waitz, in support of the Application, the plan of service is described as including a three pipe delivery system. Under a subheading entitled "Type and Location of Facilities," the consultant stated:

> A new unique feature of Intercoastal Utilities' Water and Wastewater Plants is the construction of a master stormwater management system to augment reuse particularly during the initial stages when adequate reuse water may not be available from a wastewater treatment plant and also to provide for a source of fire fighting water that will be incorporated into the proposed three (3) pipe delivery system. [emphasis added]

30. At the hearing, however, Intercoastal's expert indicated the "interim" service to the proposed new territory would be provided through a two pipe system that would be run from the terminus of Intercoastal's current 10 inch water and force mains on the east side of the Intercoastal Waterway. Mr. Waitz specifically denied that any reuse lines would be brought across the Intercoastal Waterway and stated that it would be four to five years before any reuse would be available in proposed new territory.

31. For the first few days of the hearing, Intercoastal's position appeared to be that reclaimed water for the proposed new territory would only come from the new areas west of the Intercoastal Waterway. Intercoastal did not anticipate any water, wastewater or reuse demand from Nocatee in the near future, and its engineer speculated that initial demands from Nocatee would begin in three to four years.

32. Beginning June 11, Intercoastal claimed that it would be able to address the immediate reuse needs of Nocatee by bringing reuse across the Intercoastal Waterway from its existing facilities. No cost estimate or time frame was provided as to what would be required to run a reuse line from the existing facilities to the connection point.

33. Intercoastal revised its plan of service again regarding the "interim" lines. Since Walden Chase will have commercial customers and, consequently, service to this area must meet commercial fire flow requirements, Intercoastal proposed oversizing to its water pipeline.

D JEA/St. Johns County Plan of Service.

34. In contrast to Intercoastal, JEA and the County propose water and sewer

service to the area via a "bulk" wholesale agreement, with JEA selling service in bulk to the County, and the County acting as retail provider.

35. JEA currently has 34 water plants and five major regional wastewater plants. JEA has an extremely reliable system that provides redundance through two interconnected water grids and a loop system. The capacity of several of JEA's existing water and wastewater treatment plants exceed current usage.

36. JEA's south grid currently consists of 14 interconnected water treatment plants with 54 water supply wells. The firm capacity of JEA's south grid was recently increased by 10.8 mgd in May to bring the total capacity to over 103 mgd. These capacity figures are conservatively stated. Just taking into account the south grid, JEA has sufficient capacity to provide service under the agreements with St. Johns County and DDI.

37. JEA's north grid consists of 9 interconnected water plants with 46 wells. There is currently excess water available in JEA's north grid that can potentially be used to meet water demands in the south grid. Plans are already underway to link the two water grids. When the linkage is completed, JEA will be able to further balance its withdrawals to protect against environmental damage.

38. The County/JEA Agreement sets forth the conditions for JEA to provide wholesale water and sewer services to St. Johns County and also provides for the construction of facilities to interconnect with JEA's system in Duval County in order to permit the County to provide retail service in northern St. Johns County. In this Agreement with the County, JEA has committed to utilize its economies of scale and install large lines that will be capable of handling future developments in the area thereby minimizing the prospects of having to later go back and upgrade the facilities.

39. JEA is already in the process of expanding its existing system in southern Duval County to provide regional service. This expansion is going forward irrespective of the results of Intercoastal's territory expansion request. JEA is installing a system that will provide a backbone for regional service. It will enable the establishment of a

comprehensive, economically sized system to serve throughout the surrounding area including northern St. Johns County.

40. JEA is bringing a 24 inch water line from the existing terminus of its facilities at Bayard south to Racetrack Road. From the county line, the current plan calls for a 20 inch water line extension south along U.S. 1. From Nease High School, JEA will run a 16 inch water main and a 12 inch force main north to Walden Chase. The routes selected were chosen to accommodate the regional needs of the area and to provide the most efficient service to the customers in need of immediate service.

41. From the terminus of JEA's new lines in Duval County, it is only approximately two miles to the corner of Walden Chase. To ensure reliability and provide redundancy, JEA will provide a 500,000 water reservoir located near Nease High School and will install high service pumps, a standby generator and a rechlorination facility. JEA will also provide a master wastewater pumping facility which will facilitate regional service.

42. JEA will bear the cost of the water extensions in Duval County. The County will reimburse JEA through customer connection fees for the pro rata costs of up-sizing the sewer lines in Duval County and the cost of the water and sewer lines in St. Johns County.

43. JEA is in the process of implementing a major reuse plan. JEA's reuse master plan includes a 24 inch reuse main that is extended east from Mandarin. This line is already in the planning stages and will be implemented shortly. The services provided in St. Johns County will be hooked up to this network.

E. DDI Plan of Service.

44. DDI has taken several steps toward the provision of water, wastewater and reuse service for the Nocatee development. These steps, which include the following, demonstrate DDI's desire to provide utility service to its development:

(1) DDI has formed a wholly-owned subsidiary called Nocatee Utility Corporation.

(2) Nocatee Utility Corporation has applied to the Florida Public Service Commission for a multi-county water and wastewater certificate to serve the entire Nocatee development, including both the Duval County and St. Johns County portions of the development.

(3) DDI has entered into a Letter of Intent with JEA under which JEA will provide bulk water, wastewater and reuse service to Nocatee Utility Corporation. JEA has facilities planned or in place that are sufficient to meet the needs of the Nocatee development in a timely fashion. The viability of bulk service by JEA is further evidenced by the fact that a bulk agreement with JEA was Intercoastal's first choice for the means of providing service to the proposed expansion territory.

(4) DDI intends to provide reuse throughout its development, either via JEA/St. Johns County or through its own reuse facilities.

(5) DDI has entered into an agreement with Nocatee Utility Corporation under which DDI will provide the financial resources required for Nocatee Utility Corporation to provide retail service to the Nocatee development.

(6) DDI has caused its consultants to prepare a comprehensive, peer-reviewed Groundwater Resources Development Plan. That plan analyzes the water requirements and water resources on DDI's property, and demonstrates that such needs can be met by DDI or its affiliates with no adverse impact on the aquifer or other water users. Under the DDI/JEA

Letter of Intent, DDI will make well sites available to JEA to the extent necessary to provide service to Nocatee.

(7) DDI has developed a planning approach known as Nocatee Environmental and Water Resource Area Plan ("NEWRAP"). NEWRAP represents an integrated approach to all water use and environmental issues. According to DDI, it would be difficult or impossible for DDI to implement NEWRAP if retail water, wastewater and reuse service were provided to the development by an unrelated third party such as Intercoastal.

F. Applicant's Ability to Serve.

45. There is significant doubt as to whether the Applicant has the ability to provide service to the requested area.

46. As discussed in more detail below, there are significant unanswered questions as to whether Intercoastal has sufficient operating capacity to serve the requested territory. Intercoastal has a contractual obligation to provide a specified level of reuse to Sawgrass. Taking into account this commitment and the limited size of Intercoastal's wastewater facility, even including the full amount of the current expansion, it does not appear that there will be sufficient capacity to enable Intercoastal to meet the reuse needs of Nocatee

47. As previously noted, the Applicant's plan of service changed throughout this proceeding. Under all those plans, however, Intercoastal's current wastewater treatment plant capacity is inadequate to provide service for any part of the requested territory until after completion of a proposed expansion.

48. Intercoastal will not be able to provide water and sewer service to Walden Chase by October 1, 1999. In fact, Intercoastal may not be able to meet the needs of Walden Chase for approximately two years.

49. Delays in the provision of service to the developer of Walden Chase could result in significant additional development costs and might jeopardize the project.

50. Intercoastal has had no discussions with the developer of Walden Chase and has not been requested to serve that area. As discussed below, Intercoastal's plan of service would necessarily result in huge costs to the developer of Walden Chase. It is unclear whether the developer will be willing to pay the massive costs that Intercoastal seeks to impose. Costs placed on a developer by a utility can affect the feasibility of a development. While the developer of Walden Chase has apparently indicated an intent to proceed based upon his agreement with the County, it cannot be presumed that the development will go forward under Intercoastal's plan of service. Indeed, Mr. James admitted that a similar delay in development has occurred with respect to Marsh Harbor after the land owner was informed of Intercoastal's projected costs.

51. Furthermore, Intercoastal's initial plan of service failed to address the commercial fire flow needs of Walden Chase as part of its interim plan.

52. Intercoastal's consultant has never been involved in a stormwater reuse project. Mixing stormwater with reclaimed water causes a number of environmental concerns. If the stormwater is to be mixed with reclaimed water and utilized in a residential system, a treatment system should be implemented to treat the stormwater to the level of the reclaimed water. The Florida Department of Environmental Protection is in the process of finalizing rules that will require such treatment. It is also important to note that the proper implementation of a system that mixes stormwater with reclaimed water can require extensive pumping distribution facilities. Intercoastal has totally ignored these costs.

53. Intercoastal's plan for service to Nocatee was predicated upon projected water demand that is approximately 1.7 million gallons per day short of what the developer is projecting. The total long-term demand anticipated from Nocatee is 5 to 6 mgd. Intercoastal has still not provided a coherent explanation as to how it will meet this demand. The cost of adding just .5 mgd of additional water and wastewater capacity could be as much as $2.75 million.

54. Intercoastal's contention that its plan of service is somehow superior to other alternatives because of Intercoastal's special commitment to reuse is simply erroneous. Intercoastal's witnesses are under a mistaken impression that reuse can be imposed upon a developer. Intercoastal has completely overlooked the existing legal precedent governing reuse. Contrary to Intercoastal's's contention, Walden Chase cannot be forced to implement a residential reuse system. There is no current ordinance in place in St. Johns County that would require the Developer of Walden Chase or any other subdivision to implement a residential reuse system.

55. While we believe that Intercoastal possesses the managerial, operational and technical ability to provide service to the requested territory, and can probably initially finance a project, we have questions concerning its financial operations. However, Intercoastal admitted that they are getting a fair rate of return on their investment.

G. Existence of Service from Others.

56. As previously discussed, service does exist from other providers to the requested territory. JEA currently has excess water and sewer capacity in geographic proximity to the requested territory. Furthermore, the Utility Department and DDI have entered into written, binding agreements to obtain "bulk" service from JEA. The Utility Department has likewise executed an agreement with the developer of Walden Chase.

H. Comprehensive Plan.

57. We find that Intercoastal's plan of service is not inconsistent with the St. John's County Comprehensive Plan, but neither are the plans of service of JEA, the Utilities Department, and DDI. Consistency with the St. Johns County Comprehensive Plan is but one factor that the Authority may consider in this proceeding, and does not automatically bind the Authority to approve the application.

I. Landowner/Customer Preference.

58. Two of the landowners in this proceeding have expressed a preference for receiving service from a provider other than Intercoastal.

59. First, the owner of the Walden Chase development has expressed an interest in receiving retail service from the Utility Department. This preference has been manifested in writing via letter and contract.

60. DDI, the owner of Nocatee, has expressed a preference for service from JEA via contract. DDI has not requested service from Intercoastal.

61. DDI does not desire utility service from Intercoastal. DDI's reasons for not desiring such utility service include the following:

(1) Intercoastal could not provide service to the Duval County portion of Nocatee under its proposed certificate expansion. This would result in the untenable situation where service to Phase I of the development would be provided by two different utilities.

(2) Intercoastal does not have the ability to provide sufficient reuse service to Phase I of Nocatee at the outset of development.

(3) DDI desires to retain control over the provision of water, wastewater and utility service to Nocatee to ensure that such service is available as and when required to meet the needs of the development. DDI does not want water, wastewater and reuse service to Nocatee to be subject to potential changes in the financial situation and business plans of a third party.

(4) The provision of retail service to Nocatee by any third party utility would adversely impact DDI's ability to implement its water resource plans and to develop its property in the most environmentally sensitive manner. Intercoastal's conceptual plan for providing reuse service west of the Intercoastal Waterway would require DDI to plan and operate its stormwater system in coordination with Intercoastal. This involvement by a third party utility -- whose utility-related goals would conflict with some of the developers' environmental goals -- would interfere with the implementation of DDI's integrated water resource plan.

(5) DDI believes that Intercoastal does not have the necessary facilities in place today to provide service to Nocatee and does not have anything more than conceptual plans as to how such service will be provided.

(6) Intercoastal has underestimated the utility needs of Nocatee. Intercoastal's projections for utility needs on the west side of the Intercoastal Waterway are based on simplistic growth rate projections. At the time Intercoastal's certificate expansion application was filed, the Nocatee project had not been announced and Intercoastal had no knowledge of the location or scope of that development. Intercoastal has made no subsequent attempt to take the actual development plans for Nocatee into account in any of its engineering or financial analysis.

(7) Intercoastal has not shown that it would be the lowest cost, most efficient provider of service, nor has it provided anything more than speculation as to what the impact of the certificate expansion would be on the rates to its current customers.

(8) If service were provided by Intercoastal, DDI would be required to contribute substantial assets to Intercoastal which would create value for Intercoastal's stockholders when Intercoastal's system is eventually sold. If service is provided by DDI or its affiliate, the value of those assets would be retained directly or indirectly by DDI.

62. Finally, Intercoastal's existing customers have vocally opposed the application for the proposed territory. The Sawgrass Association which represents approximately 1,600 residential customers currently served by Intercoastal, has expressed concern over Intercoastal's apparent plan to provide service, at least temporarily, to the new territory via Intercoastal's existing facilities.

CONCLUSIONS OF LAW

1. Pursuant to Sections $17^3/_4$-203(a)(1) and $17^3/_4$-206 of the St. Johns County Utility Ordinance ("Ordinance"), the Authority has jurisdiction to issue a Preliminary Order regarding Intercoastal's certificate extension application.

2. Pursuant to Section $17^3/_4$-202(n) of the Ordinance, any person having an identifiable interest in the proceeding can participate as a party in a proceeding before the Authority. Each of the Intervenors has an identifiable interest in the proceeding as a proposed alternative provider of service to a portion of the proposed expansion territory. In addition, DDI has an identifiable interest in the proceeding as the owner of the vast majority of the land covered by the expansion application. Each of the Intervenors therefore has standing to participate as a party in this proceeding.

3. As the applicant in this proceeding, Intercoastal bears the burden of demonstrating its entitlement to the territory extension it seeks. See, Department of Transportation v. JWC Corporation, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).

4. Section 17-3/4-206 of the St. Johns County Utility ordinance provides that the proposed extension of service by a utility cannot be commenced until the utility obtains an amended franchise certificate for the proposed extension. Section 17-3/4-204(B) of the Ordinance provides the Authority with the power to issue a Preliminary Order on the territory extension request. These criteria expressly apply to certificate extension applications governed by 17 3/4 - 206, such as the one before the Authority in this case. See Section 17 3/4 - 204 (C)(h). The Authority will exercise its discretion to apply the original certificate criteria to this certificate extension case; however, it will also consider other factors that the Authority has determined bear on the public interest.

5. Subsection (e) of Section 17$^3/_4$-204.C of the Ordinance contemplates an inquiry into the need for service in the territory involved in the application. Intercoastal has failed to demonstrate a need for service to the portion of the proposed expansion area owned by DDI which is outside the boundaries of the planned Nocatee development. The Authority concludes that it is not in the public interest to grant a certificate expansion for a large area which has no foreseeable need for utility service. Intercoastal's certificate expansion application for this portion of the requested territory should therefore be denied. For purposes of further analysis, we assume, but do not decide, that Intercoastal has adequately demonstrated a need for service to the balance of the requested territory.

6. Subsection (e) of Section 17$^3/_4$-204.C of the Ordinance permits an inquiry into the ability of the applicant to provide service to the territory applied for. Intercoastal has failed to demonstrate that it can commence service to the Walden Chase development in a time frame that meets the needs of the developer. Intercoastal has also failed to demonstrate that it can commence reuse service to Nocatee in a time frame and quantity that meets the needs of the developer. Due to the multi-county nature of Phase I of Nocatee, Intercoastal cannot provide service under its application to the entire area that has one of the most immediate needs for service.

7. In the exercise of its discretion, the Authority concludes that Intercoastal's informational submissions to the St. Johns River Water Management District (SJRWMD) as part of the 2020 Water Planning process do not confer any particular rights on Intercoastal in this certificate extension proceeding. The 2020 Water Plan currently exists only in draft form and final action on the plan is not anticipated before

late 1999. Further, correspondence from the SJRWMD makes it clear that Intercoastal's information submission does not grant Intercoastal any preferred status with respect to future required permitting activities. In fact, the issuance of a certificate to serve the territory is a prerequisite to the SJRWMD's review of any consumptive use permit application.

8. We have found no controlling authority on the weight that this Authority should give to landowner preference in cases involving certification of water and wastewater utilities.

(1) In an early case involving the Commission's approval of a territorial service agreement between two electric utilities, the Florida Supreme Court stated that "[a]n individual has no organic, economic or political right to service by a particular utility merely because he deems it advantageous to himself." Storey v. Mayo, 217 So.2d 304 (Fla. 1968). In that case, the two utilities had *agreed* on a territorial boundary, and the Commission had approved that agreement as being in the public interest.

(2) In a more recent case involving a *dispute* between two electric utilities, the Court held that it was reversible error for the Commission to disregard customer preference in a situation where each utility was capable of serving the territory in dispute. Gulf Coast Electric Co-op, Inc. v. Clark, 674 So.2d 120 (Fla. 1996). the Supreme court has likewise recognized this preference as a factor in FPSC certificate cases. See Davie Utilities, Inc. v. Yarborough, 263 So.2d 215 (Fla. 1972).

(3) In a case involving a contested water and sewer certificate application, the District Court of Appeal upheld a Florida Public Service Commission order which gave weight to the importance of having an overall plan for orderly development of a large scale land development project and the unique

ability of a developer-related utility to perform such planning. St. Johns North Utility Corp. v. Florida Public Service Commission, 549 So.2d 1066 (Fla. 1st DCA 1989).

9. Based on these precedents, the Authority concludes that in a *disputed* certificate extension case, it is entitled to consider both landowner preference and the unique ability of a developer-related utility to integrate utility planning with overall planning for the development in making its public interest determination. We have further concluded that, in the particular circumstances of this case, we should give great weight to these factors. These circumstances include the following:

(1) The vast majority of the portion of the proposed expansion area planned for development (i.e. Nocatee) is owned by a single party (i.e. DDI). The first phase of Nocatee crosses a county line and could not be served in an integrated fashion by Intercoastal under the certificate extension applied for in this case.

(2) As part of its overall development plans for Nocatee, DDI is proposing to provide retail water, wastewater and reuse service to Nocatee through an affiliated, multi-county utility company that plans to obtain bulk utility service from JEA. DDI has taken substantial steps with regard to water resource planning generally and with respect to utility planning in particular, including the conduct of a detailed Groundwater Resource Development Plan of a type that Intercoastal has testified it will not undertake unless and until it is granted a certificate extension. DDI appears to have the capability of carrying out its development plan. While this Authority does not have the jurisdiction to grant or deny an application for multi-county service such as that filed by Nocatee Utility Corporation with the Florida Public Service Commission, we do have the discretion to consider the pendency of such an application in making our determination on the single-county application before us.

(3) The remainder of the proposed expansion area is owned by a small number of parties, including the developers of the proposed Walden Chase and Marsh Harbor developments.

(4) The record shows that neither the developer of Nocatee nor the developer of Walden Chase desire service from Intercoastal. The record shows that Marsh Harbor requested an estimate of the cost of providing service from Intercoastal in 1996, but did not pursue the matter further following receipt of that estimate. In any event, we conclude that service to Marsh Harbor would be feasible only if we also granted a certificate to serve substantial additional territory on the West side of the Intercoastal Waterway.

10. Intercoastal contends that unless its certificate expansion application is approved, it will not have the opportunity to continue to expand and to take advantages of the economies of scale typically associated with a larger utility system. We give little weight to this factor in making our public interest determination, given the absence of any credible projections of the cost of providing service to the expansion territory or the impact that such service would have on the rates paid by existing customers of Intercoastal. We also note that none of the public witnesses representing customers of Intercoastal favored the proposed certificate expansion. We do not believe Intercoastal's financial position will be imperilled by a denial of the requested territory.

11. Intercoastal contends that unless its certificate expansion application is granted, the rates for service to the proposed territory will not be subject to control by this Authority and by the Board of County Commissioners. While this may be true, it is not a factor that we believe warrants consideration in our public interest determination. The Legislature has granted the Board of County Commissioners rate making authority over private utilities, such as Intercoastal, who provide service wholly within St. Johns County. The Legislature has granted the Florida Public Service Commission such authority over private multi-county systems, such as that proposed by DDI and Nocatee Utility Corporation. It is not our role to second-guess the wisdom of this regulatory

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scheme, but only to determine whether granting Intercoastal a certificate expansion is in the public interest.

12. After the date this application was filed, but prior to this hearing, the St. Johns County Board of County Commissioners adopted Ordinance No. 99-36, the St. Johns County Water and Wastewater Service Area Ordinance. This Ordinance claims the Walden Chase and Marsh Harbor territory as the "Exclusive Service Area" of the County. We note in passing that Section 12 of that Ordinance provides that nothing in the Ordinance affects the powers of the Authority to process and conduct certification proceedings for new utilities or for extensions of territories outside the County's Exclusive Service Area. Regardless of the Ordinance's intent, which is ultimately a question for the Board of County Commissioners or the courts, we find that we can reach a decision without application of the Ordinance.

13. Based on all the factors discussed above, we determine that it is not in the public interest to grant any portion of Intercoastal's requested certificate extension.

Based on the foregoing, it is ORDERED as follows:

1. Intercoastal's application to amend Franchise Certificates Nos. 13 and 14 is and should be DENIED in its entirety.

2. This Order shall not take effect unless and until it is confirmed by the Board of Commissioners.

ORDERED at St. Johns County, Florida, this 4th day of August, 1999.

ST. JOHNS COUNTY WATER AND SEWER AUTHORITY

BY: _____
Its Chairman

I HEREBY CERTIFY that conformed copies here of have been furnished by mail to the following on the 6th day of August, 1999.

SERVICE LIST

John L. Wharton, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Underwood, et al.
P.O. Box 551
Tallahassee, FL 32302-0551

James L. Ade, Esquire
Scott G. Schildberg, Esquire
Martin, Ade, Burchfield, & Mickler, P.A.
3000 Independent Square
Jacksonville, Florida 32202

Richard D. Melson, Esquire
Hopping, Greens, Sams & Smith
123 South Calhoun Street
Tallahassee, FL 32314

David G. Conn, Esquire
28 Cordova
St. Augustine, FL 32804

Suzanne Brownless, Esquire
1311-B Paul Russell Road, Suite 201
Tallahassee, FL 32301

Thomas A. Cloud, Esquire
Gray, Harris & Robinson, P.A.
P.O. Box 3068
Orlando, FL 32802-3068

Secretary to Executive Director

323-4444

STATE OF FLORIDA

COUNTY OF ST. JOHNS

I, CHERYL STRICKLAND, CLERK OF THE CIRCUIT COURT, Ex-officio, Clerk of the Board of County Commissioners of St. Johns County, Florida,

DO HEREBY CERTIFY that the foregoing is a true and correct copy of the following:

ORDER NO. 99-00012

PRELIMINARY ORDER DENYING APPLICATION TO AMEND FRANCHISE CERTIFICATES 13 AND 14, ST. JOHNS COUNTY WATER AND SEWER AUTHORITY ORDERED SEPTEMBER 7, 1999

as the same appears of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 22nd of October 1999

CHERYL STRICKLAND
CLERK OF THE CIRCUIT COURT
Ex-officio Clerk of the Board of County
Commissioners of St. Johns County, Florida

(seal)

By: Patricia DeGrande
Patricia DeGrande, Deputy Clerk

323-2222

ORDER OF THE BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

RE: APPLICATION OF INTERCOASTAL UTILITIES, INC. FOR EXTENSION OF WATER AND WASTEWATER SERVICE TERRITORIES.

ST. JOHNS WATER AND SEWER AUTHORITY
DOCKET NO. 99-0007-0002-0009
ORDER NO. 99-00015

FINAL ORDER CONFIRMING THE ST. JOHNS COUNTY WATER AND SEWER AUTHORITY'S PRELIMINARY ORDER 99-00012

This matter was heard on September 7, 1999, at a special meeting of the Board of County Commissioners of St. Johns County, Florida ("Board") before Board Chairman Marc A. Jacalone, and Commissioners Pal W. Howell, John J. Reardon, Dr. Mary Kohnke and James E. Bryant.

APPEARANCES

For Intercoastal Utilities, Inc.:	John L. Wharton, Esq. 2548 Blairstone Pines Drive Tallahassee, Florida 32301
For DDI, Inc. and Estuary Corporation:	Richard D. Melson, Esq. 123 South Calhoun Street Tallahassee, Florida 32314
For St. Johns County Utility Department:	Suzanne Brownless, Esq. 1311-B Paul Russell Road Suite 201 Tallahassee, Florida 32301
For JEA:	Kenneth A. Hoffman, Esq. J. Stephen Menton, Esq. 215 South Monroe Street Suite 420 Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

At issue is whether the St. Johns County Water and Sewer Authority's ("Authority") Preliminary Order 99-00012 Denying

Application of Intercoastal Utilities, Inc. to Amend Franchise Certificates Nos. 13 and 14 issued on August 6, 1999, should be confirmed, modified or reversed.

PRELIMINARY STATEMENT

On March 9, 1999, Intercoastal Utilities, Inc. (Intercoastal) submitted its application for extension of Certificates Nos. 13 and 14 in order to provide water and sewer service to an area of approximately 25,000 acres located west and southwest of the Intercoastal Waterway. Pursuant to St. Johns County Water and Sewer Authority Rules 1.5(2) and 11.1 (Rules), DDI, Inc. and Estuary Corporation (DDI); JEA; St. Johns County Utility Department (Utility Department), United Water Florida, Inc. and Hines Interests Limited Partnership all filed timely objections to Intercoastal's application and requests for hearing on April 6, March 30, April 8 (United and County) and April 7, 1999, respectively.

On April 7, 1999, the Authority requested that the Board grant an extension until May 5, 1999, to hold the evidentiary hearing on Intercoastal's application. The Authority subsequently revised this request for an extension until June 2, 1999. This revised request was granted by the Board on April 14, 1999. Along with its April 8th Objection to and Request for Hearing, United also filed a Motion to Dismiss, or in the alternative, Motion for Stay or Abatement. Intercoastal filed its Response to the Motions to Dismiss and for Abatement or Stay on April 21, 1999.

On May 13, 1999, DDI filed an Emergency Motion for Discovery;

Intercoastal filed its response to the Motion on May 20, 1999; and DDI filed its Reply on May 21, 1999. The Motion for Discovery was heard before the Authority on May 24, 1999, and was denied. On May 25, 1999 Intercoastal filed its Motion for Disqualification of the Authority and the Board of County Commissioners of St. Johns County (Board). The Utility Department filed its Response to the Motion for Disqualification on May 27, 1999. This matter was heard by the Authority on the first day of the hearing, June 2, 1999, and denied as to the Authority. On June 1, 1999 United withdrew its Objection, Motion to Dismiss and Motion for Stay or Abatement.

The Authority conducted evidentiary hearings in this docket on June 2, 4, 11, 18, 19 and 23, 1999. At these hearings the Authority heard the testimony of 19 witnesses and admitted 44 exhibits into evidence. Proposed Preliminary Orders were timely filed by the Utility Department and JEA; Proposed Findings of Fact, Conclusions of Law and Preliminary Order was timely filed by DDI; and Proposed Recommended Order was timely filed by Intercoastal on July 19, 1999, and are part of the record. On August 4, 1999, the Authority met at a properly noticed public meeting and voted to deny Intercoastal's request for extension of its certificated water and sewer service territories. The Authority's Preliminary Order 99-00012, issued on August 6, 1999, now before us memorializes that vote.

Based upon a review of the record and legal argument of the parties the Board hereby finds and determines the following:

FINDINGS OF FACT

1. All preliminary orders of the Authority must be confirmed by the Board prior to becoming effective. County Code §17-3/4-223(a).

2. The Authority and the Board, in reviewing applications for certificate extensions must consider: ability of the applicant to provide service; the nature of the service territory and facilities necessary to serve the requested territory; the need for service in the requested territory; and the existence, or nonexistence, of service from other utility providers to the requested service territory. County Code §§17-3/4-204C.(e), 17-3/4-223(f). The Authority and the Board are also able to consider any other factors, which in their discretion, are deemed relevant, e.g., landowner/developer preference, ability to permit certain types of facilities, the date service will be available, compliance with the County Comprehensive Plan and environmental impacts of proposed facilities. Finally, both the Authority and the Board are generally charged with acting in the public interest when considering certificate expansion requests.

3. The Authority and this Board must base their decisions with regard to the criteria stated above on competent substantial evidence of record adduced at a hearing which complies with the essential requirements of law. County Code §17-3/4-223(e)(3). Further, the Board may rely on the factual findings of the Authority unless it finds, after a full review of the record, that either there is no competent substantial evidence to support

specific findings or the proceeding did not comport with the essential requirements of the law. County Code §17 3/4-223(e)(3).

CONCLUSIONS OF LAW

4. Upon a review of the extensive record before us we find that the decision of the Authority with regard to the criteria stated in County Code §§17 3/4-204C.(e) are supported by competent substantial evidence of record as is extensively documented in the Proposed Preliminary Orders submitted by the parties.

5. We further find that the hearing before the Authority did comport with the essential requirements of the law in that all parties were given an opportunity to present and cross examine witnesses, give opening and closing statements, introduce evidence into the record and file proposed preliminary orders.

6. With regard to the arguments presented by Intercoastal in its Notice of Objection to Confirmation of Order, we note that Intercoastal has merely reargued its case without identifying any instances in which the Authority failed to base its findings on competent substantial evidence of record or misinterpreted Authority rules or applicable County Code sections. Additionally, Intercoastal did not complain that its procedural rights were infringed by the conduct of the hearing before the Authority.

IN CONSIDERATION OF THE ABOVE, IT IS ORDERED THIS 7th DAY OF September 1999, THAT PRELIMINARY ORDER 99-00012, ISSUED BY THE ST. JOHNS COUNTY WATER AND SEWER AUTHORITY ON AUGUST 6, 1999, IS HEREBY CONFIRMED.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Marc A. Jacalone
Marc A. Jacalone, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: Patricia DeGrande
Deputy Clerk

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that conformed copies hereof have been furnished this 21st day of September, 1999 by U.S. Mail, postage prepaid, to each of the persons listed on the following Service List.

Cheryl Strickland

Cheryl Strickland, Clerk

SERVICE LIST

John Wharton, Esq.
Rose, Sundstrom & Bentley
2548 Blairstone Pines Dr.
Tallahassee, Florida 32301

Richard D. Melson, Esq.
Hopping Green Sams & Smith
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Tallahassee, Florida 32314

Kenneth A. Hoffman, Esq.
Rudledge Ecenia Underwood
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Tallahassee, Florida 32302-0551

Thomas Cloud, Esq.
Gray Harris & Robinson
201 East Pine Street
Suite 1200
P.O. Box 3068
Orlando, Florida 32802

David Conn, Esq.
Conn and Christine
28 Cordova Street
St. Augustine, Florida 32084

Suzanne Brownless, Esq.
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301

David A. Theriaque, Esq.
David A. Theriaque, P.A.
837 East Park Avenue
Tallahassee, Florida 32301

Cheryl Strickland

Cheryl Strickland, Clerk

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STATE OF FLORIDA

COUNTY OF ST. JOHNS

I, CHERYL STRICKLAND, CLERK OF THE CIRCUIT COURT, Ex-officio, Clerk of the Board of County Commissioners of St. Johns County, Florida,

DO HEREBY CERTIFY that the foregoing is a true and correct copy of the following:

ORDER NO. 99-00015

FINAL ORDER CONFIRMING THE ST. JOHNS COUNTY WATER AND SEWER AUTHORITY'S PRELIMINARY ORDER NO. 99-00012, ORDERED SEPTEMBER 7, 1999

as the same appears of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 27ST of September 1999

CHERYL STRICKLAND
CLERK OF THE CIRCUIT COURT
Ex-officio Clerk of the Board of County
Commissioners of St. Johns County, Florida

(seal)

By: Patricia DeGrande
Patricia DeGrande, Deputy Clerk

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DRAFT 4/13/99

AGREEMENT

THIS AGREEMENT between Florida First Coast Development Corporation, a Florida corporation ("First Coast"), Walden Chase Developers, Ltd., a Florida limited partnership ("Walden Chase"), and St. Johns County, a political subdivision of the State of Florida (the "County"), is entered into and effective as of April 13, 1999 (the "Effective Date").

In consideration of the mutual promises and representations contained in this instrument and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. The County shall have the exclusive right and obligation to provide water and sewer service to the CR210 PUD through build-out of the project as it is described in PUD Ordinance No. 98-44. The County intends to enter into an agreement with JEA to initiate service by participating with the JEA in a wholesale or joint venture agreement.

2. Water and wastewater treatment will be provided to the CR210 PUD by the County using water and sewer service provided to the County by JEA. The JEA will run the necessary transmission lines from an existing location in Duval County to the point of connections in the vicinity of Allen Nease High School.

3. All compensation due to JEA for its initial capital expenditures and subsequent treatment services will be handled by a direct agreement between JEA and the County. That agreement will not involve Walden Chase.

4. Walden Chase and its successors and assigns will be subject to the unit connection fees, rates, charges and policies of St. Johns County as established from time to time by the St. Johns County Utility Ordinance (Ordinance 97-62) and/or its successor ordinances.

5. Walden Chase will not be required to bear any portion of the direct cost of any master lift station or any real property associated with any master lift station located beyond the boundaries of the CR210 PUD. Walden Chase and its successors and assigns shall contribute the lesser of $40,000.00 or the purchase price for two acres to accommodate a water reservoir site.

6. The County and JEA will immediately commence design of the improvements necessary for the water and sewer service to the point of connection to enable service of Allen Nease High School and the CR210 PUD. The County or JEA will make all reasonable efforts to have the physical ability to provide service to the CR210 PUD at the point of connection near Allen Nease High School by October 1, 1999. To the extent that this date is not met, the County will not be responsible for monetary damages for any delay in completion of the construction of the facilities.

ATTACHMENT D

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7. Walden Chase understands that the County's right to actually connect the CR210 PUD to its system is subject to the favorable resolution of the Public Service Commission ("PSC") hearing process initiated by United Water of Florida, Inc. for expansion of its service area. In the event the County is not granted the right to serve the CR210 PUD after the exhaustion of all applicable appeals, then this Agreement shall cease.

8. The County and JEA shall, subject to review of engineering plans, execute the necessary FDEP permit applications to acknowledge application of treatment capacity to the CR210 PUD to accommodate its development and allow construction of its on-site facilities.

9. The County will be responsible for construction of approximately 3200 feet of new eight or ten inch sewer force main and 3200 feet of new sixteen inch water main from the CR210 PUD along the Jacksonville Beach Electric Transmission Utility Easement to the proposed master lift station and point of connection with the County water system. Walden Chase shall obtain the appropriate encroachment agreement from Jacksonville Beach for use by the County of the Jacksonville Beach Electric Transmission Utility Easement. The size of the sewer force main shall be determined by the County in its final engineering plan review. All engineering, permitting and design for the sewer force main and the water force main construction herein described shall be performed, done, and obtained by Walden Chase subject to prior County review and approval. Walden Chase and its successors and assigns will be responsible for all necessary easements within the CR210 PUD.

10. The County will make a good faith effort to enter into an agreement with JEA necessary and convenient for the County to perform its duties under this Agreement and necessary to have JEA perform the duties contemplated of it herein.

11. Notwithstanding any of the other provisions in this Agreement, the County shall have no duties or obligations under this Agreement, other than as set forth in paragraph # 10 above, until and unless the agreement between JEA and the County that is necessary or convenient to the exercise of the County's duties hereunder has been executed and delivered among JEA and the County on or prior to April 30, 1999.

12. The duty of the County to perform its obligations under this Agreement is contingent upon the performance by JEA of its duties under the above described County agreement with JEA and shall be tolled by reason of force majeure.

13. Immediately upon execution of this Agreement, First Coast will provide written notification to United Water Florida, Inc. that it has withdrawn its application for service. First Coast and Walden Chase shall cooperate with the County and JEA in connection with the Public Service Commission hearing process to support the County's efforts to maintain its service area until and unless the Public Service Commission rules otherwise.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

FLORIDA FIRST COAST DEVELOPMENT CORPORATION, a Florida Corporation

By: _____
Raymond M. O'Steen
Its President

(CORPORATE SEAL)

WALDEN CHASE DEVELOPERS, LTD., a Florida limited partnership

By: FLORIDA FIRST COAST DEVELOPMENT CORPORATION, a Florida corporation, its managing general partner

By: _____
Raymond M. O'Steen
Its President

(CORPORATE SEAL)

ST. JOHNS COUNTY

By: _____
Ben W. Adams, Jr.,
Its County Administrator

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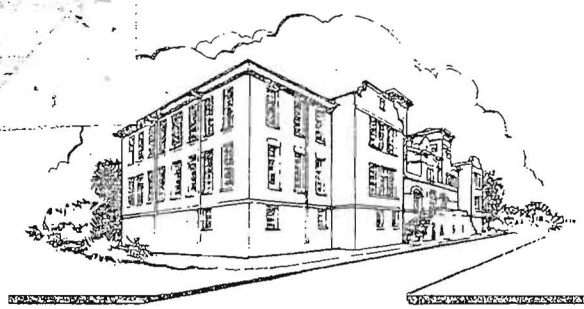
KKKKK



ST. JOHNS COUNTY SCHOOL DISTRICT
40 Orange Street
St. Augustine, Florida 32084

Hugh Balboni, Ed.D.
Superintendent

School Board Administration Center
Historic St. Augustine

Telephone (904) 826-2000
FAX (904) 826-4903

FAXED 4/22/99

April 22, 1999

Mr. Bill Young
Director of Utilities
St. Johns County
P. O. Box 3006
St. Augustine, FL 32085-3006

Dear Bill:

Enclosed please find the signed Letter of Intent in regards to the School District conveying the water and wastewater treatment facilities at Allen D. Nease High School to the St. Johns County Utility Department in return for the County providing water and wastewater services to Nease High School. This Letter of Intent was approved by the School Board at its regular meeting on April 20. Once Mr. Adams has signed the letter, please provide me with a fully executed copy.

Sincerely,

David Toner
Executive Director
For Facilities & Operations

Scc

Enclosure

FILED
99 JUN -9 AM 9:45
OFFICIAL RECORDS
ST. JOHNS COUNTY, FL

ATTACHMENT E

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April 20, 1999

Mr. David Toner
Executive Director For Facilities and Operations
St. Johns County School District
40 Orange Street
St. Augustine, Florida 32084

RE: Letter of Intent

Dear Mr. Toner:

St. Johns County (County) is pleased to submit this Letter of Intent outlining the County's intention to enter into an agreement with the St. Johns County School District (District) for the provision of water and wastewater services to Allen D. Nease High School (High School). This letter is provided pursuant to your letter of April 1, 1999 indicating the District's desire to turn over the water and wastewater treatment facilities at the High School to the County and become a customer of the County's water and wastewater system.

For good and valuable consideration, the County and the District agree to negotiate in good faith over the next 90 days to arrive at a mutually acceptable agreement for the provision of water and wastewater services to the High School. The agreement will be subject to approval of the governing body of the District and the St. Johns County Commission. It is the County's intent and anticipation that the material terms and conditions set forth in this letter will be reflected in the final agreement between the parties.

The County is ready willing and able to provide water and wastewater services to the High School. The County has the financial resources and operational and technical capability to develop, construct and expand its facilities to include the High School and to operate the existing water and wastewater facilities at the High School until such time as interconnection with the County's water and wastewater systems can be made.

In exchange for the County waiving otherwise payable unit connection fees, the District shall convey to the County at no cost the water and wastewater treatment facilities currently on the High School site. The District shall also transfer to the County all outstanding electric accounts, all Department of Environmental Protection (DEP) permits and all other state, federal or local

operational permits needed to operate the existing water and wastewater facilities.

The District shall also provide the County with a perpetual easement for the land on which the water and wastewater treatment facilities are currently located for use by the County in providing water and wastewater services to the High School.

At the time that the existing water and wastewater treatment facilities are disconnected and the High School is connected into the County's water and wastewater system, the District will have the option of removing the treatment facilities and retaining the salvage value of the plants or having the County remove and retain the salvage value of the plant.

The District shall provide the lift station and/or other facilities needed to connect the High School to the County's water and wastewater system.

The County will charge the District the County's uniform published rates in effect for service to similarly situated retail customers.

If the foregoing is acceptable, please indicate by executing this letter where indicated below and returning it to Mr. Bill Young, Utilities Director, St. Johns County Utility Department, P.O. Box 3006, St. Augustine, Florida 32085-3006.

Upon your execution of this and the receipt of our signature hereon by April 20, 1999, the County will cause its attorneys to prepare the first draft of the agreement referenced above and deliver the same to you not more than fourteen (14) days from the date of this executed letter.

Very truly yours,
St. Johns County

By: Ben W. Adams

Ben W. Adams, County Administrator
St. Johns County, Florida
P. O. Drawer 349
St. Augustine, Florida 32085-0349

FILED
'99 JUN -9 A9:45
CLERK CIRCUIT COURT
ST. JOHNS COUNTY FL

The undersigned hereby agrees to the terms and conditions set forth in this letter of intent.

Date: _____

Hugh Balboni
Superintendent of Schools

C:2715

FILED
99 JUN -9 A9:45
JAMES STERKEN
CLERK COUNTY COMMISSION
PASCO COUNTY FL

ORDINANCE NO. 99-36

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA REGULATING THE CONSTRUCTION, USE AND PROVISION OF WATER AND WASTEWATER FACILITIES AND SERVICES WITHIN THE CITY OF ST. AUGUSTINE BEACH AND THE UNINCORPORATED AREAS OF ST. JOHNS COUNTY, FLORIDA, IT DESIGNATES A SHORT TITLE, STATES THE COUNTY'S JURISDICTION, STATES THE COUNTY'S AUTHORITY TO ACT, MAKES CERTAIN FINDINGS, DESIGNATES THE CITY OF ST. AUGUSTINE BEACH AND CERTAIN UNINCORPORATED AREAS OF THE COUNTY AS EXCLUSIVE COUNTY WATER AND WASTEWATER SERVICE AREAS AND OTHER AREAS AS DESIGNATED WATER AND WASTEWATER SERVICE AREAS, PROHIBITS WATER AND WASTEWATER CONSTRUCTION AND SERVICE BY OTHER (NONCOUNTY) WATER AND WASTEWATER UTILITIES IN THE EXCLUSIVE COUNTY WATER AND WASTEWATER SERVICE AREAS, PROHIBITS WATER AND WASTEWATER CONSTRUCTION AND SERVICE BY OTHER (NONCOUNTY) WATER AND WASTEWATER UTILITIES IN THE DESIGNATED WATER AND WASTEWATER SERVICE AREAS WITHOUT THE COUNTY'S PRIOR WRITTEN CONSENT, REQUIRES MANDATORY CONNECTION PURSUANT TO COUNTY ORDINANCE 97-62, CONTAINS A SEVERABILITY CLAUSE, RESERVES POWERS TO THE FLORIDA PUBLIC SERVICE COMMISSION AND THE ST. JOHNS COUNTY UTILITY AUTHORITY, SETS FORTH ENFORCEMENT AND PENALTY PROVISIONS AND PROVIDES AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

SECTION 1. SHORT TITLE. This ordinance shall be known and cited as the St. Johns County Water and Wastewater Service Area Ordinance.

SECTION 2. JURISDICTION. This ordinance shall apply in the City of St. Augustine Beach and the unincorporated areas of St. Johns County, Florida, as such area exists on the date this ordinance is enacted.

SECTION 3. AUTHORITY. Pursuant to Article VIII, §1(f), Florida Constitution, and §125.01(1)(k), Florida Statutes, and other applicable general and special laws, excluding specifically Chapter 153, Florida Statutes, the Board of County Commissioners is authorized to provide, regulate, purchase, construct, improve, extend, enlarge and reconstruct water and wastewater facilities; and to operate, manage and control water and wastewater facilities within the County.

SECTION 4. FINDINGS. The Board of County Commissioners of St. Johns County, Florida finds, determines and declares the following:

1. The County and adjacent neighboring counties are projected to experience large population increases within the next twenty years.

2. As the population increases, the demand for central water and wastewater services will also increase.

3. In order to protect the health, safety and welfare of its citizens, it is necessary and appropriate that the Board of County

Commissioners coordinate and regulate the provision of water and wastewater infrastructure that is necessary for development within the unincorporated areas of the County. To that end the County currently operates water and wastewater systems serving approximately 35,000 customers.

4. In order to protect the health, safety and welfare of its citizens, it is also necessary and appropriate that the County operate its existing and future water and wastewater facilities as cost-effectively and efficiently as possible and that it effectively and efficiently coordinate its services with such other water and wastewater services providers in the unincorporated areas of the County as are necessary and appropriate to provide competent, safe and efficient and economical water and wastewater services to the citizens of the County.

5. In order to accomplish these goals, the County deems it necessary to enact this water and wastewater service area regulatory ordinance.

SECTION 5. CREATION OF SERVICE AREA. There is hereby created the St. Johns County Water and Wastewater Service Area (hereinafter referred to as the Service Area) consisting of all unincorporated areas of the County as such areas exist on the date this ordinance is enacted and the City of St. Augustine Beach. The

Service Area consists of areas hereby designated as either Exclusive Service Area or Designated Service Area.

SECTION 6. SERVICE AREA BOUNDARIES.

1. The Board of County Commissioners hereby establishes the County's Exclusive Service Area consisting of the area described in Exhibit "A" attached hereto and incorporated into this ordinance exclusive of: (a) those areas certified for water and/or wastewater service by the Florida Public Service Commission (FPSC) prior to the date that this ordinance was enacted, for as long as such certification remains in effect, (b) those areas certificated for water and/or wastewater service by the Board of County Commissioners on the date this ordinance is enacted, for as long as such certification remains in effect, (c) those areas currently being provided water and/or wastewater services by municipalities on the date this ordinance is enacted, for as long as such services are provided, (d) those areas served or scheduled to be served with water and/or wastewater services within community development districts by such districts as have been lawfully created prior to the enactment of this ordinance, and (e) those areas served or to be served with water and/or wastewater services by a municipality pursuant to a current territorial agreement between the County and a municipality as of the date this ordinance is enacted for so long

as the agreement remains in effect. The Board of County Commissioners may enlarge or reduce the County's Exclusive Service Area by resolution(s). The County shall, and is obligated to, provide water and/or wastewater service to all persons and entities who request such service within the Exclusive Service Area in accordance with applicable County ordinances and rules and regulations.

2. The Board of County Commissioners hereby establishes the County's Designated Service Area consisting of the Service Area described in Section 5, less the County's Exclusive Service Area exclusive of: (a) those areas certified for water and/or wastewater service by the Florida Public Service Commission (FPSC) prior to the date that this ordinance was enacted, for as long as such certification remains in effect, (b) those areas certificated for water and/or wastewater service by the Board of County Commissioners on the date this ordinance is enacted, for as long as such certification remains in effect, (c) those areas currently being provided water and/or wastewater services by municipalities on the date this ordinance is enacted, for as long as such services are provided, (d) those areas served or scheduled to be served with water and/or wastewater services within community development districts by such districts as have been lawfully created prior to

the enactment of this ordinance, and (e) those areas served or to be served with water and/or wastewater services by a municipality pursuant to a current territorial agreement between the County and a municipality as of the date this ordinance is enacted for so long as the agreement remains in effect. The Board of County Commissioners may enlarge or reduce the County's Designated Service Area by resolution(s).

SECTION 7. OTHER UTILITIES OF SIMILAR CHARACTER PROHIBITED.

1. No person or entity other than the County and/or its designees shall provide water or wastewater services (other than bottled water) to any person or location within the County's Designated Service Area without the County's express written permission. No person or entity other than the County shall provide water and/or wastewater services (other than bottled water) to any person or location within the County's Exclusive Service Area. No person or entity other than the County and/or its designee shall construct or use water and/or wastewater transmission lines, pipes, mains, pumping stations or the like on or within established rights of way for the purpose of providing water and/or wastewater service to land located within the County's Exclusive Service Area. No person or entity other than the County

and/or its designees shall construct or use water and/or wastewater transmission lines, pipes, mains, pumping stations or the like on or within established rights of way for the purpose of providing water and/or wastewater service to land located within the County's Designated Service Area without the County's express written permission. These prohibitions shall not be deemed to prohibit private water wells and/or septic tanks for individual structures if mandatory connection is not required under Ordinance 97-62, as amended from time to time.

2. When cost effective and in the best interests of the County's citizens, the County may contract with other water and/or wastewater utilities that meet County standards to operate within portions of the County's Designated Water and Wastewater Service Area.

SECTION 8. COMPREHENSIVE PLAN.

Nothing contained in this Ordinance shall be construed to allow the County or its designees to provide water and/or wastewater service to any area within the County's Exclusive or Designated Service Areas if providing such service(s) would be inconsistent with the County's Comprehensive Plan.

SECTION 9. CONNECTION TO WATER AND WASTEWATER SYSTEMS.

Mandatory connection to County water and wastewater facilities

shall be required in accord with the provisions of County Ordinance 97-62, as amended from time to time.

SECTION 10. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 11. FLORIDA PUBLIC SERVICE COMMISSION.

Nothing contained in this ordinance is intended to affect or amend the existing service territories of water and wastewater utilities regulated by the Florida Public Service Commission pursuant to Chapter 367, Florida Statutes, nor shall this ordinance be construed to affect the powers granted by the Florida Legislature to the Florida Public Service Commission.

SECTION 12. ST. JOHNS COUNTY UTILITY AUTHORITY MATTERS.

Nothing contained in this ordinance is intended to affect or amend the existing service territories of water and wastewater utilities regulated by the Board of County Commissioners pursuant to St. Johns County Ordinance No. 89-63, as amended, and the Rules and Regulations of the St. Johns County, Florida, Utility Authority

as adopted by Ordinance 97-8, as amended, nor shall this ordinance be construed to affect the powers of the Board of County Commissioners and the St. Johns County Water and Sewer Authority with regard to processing and conducting certification proceedings for new utilities or for extensions of existing water and/or wastewater service territories located outside of the County's Exclusive Service Area.

SECTION 13. CODE ENFORCEMENT. This ordinance may be enforced by any method prescribed by law, including injunctive relief and the provisions of Chapter 162, Florida Statutes, (Code Enforcement Board and Citation) and ordinances enacted thereunder.

SECTION 14. PENALTIES. Any person or entity violating any of the provisions of this ordinance shall be prosecuted in the same manner as misdemeanor are prosecuted. Such violation shall be prosecuted in the name of the State of Florida in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction the violator shall be punished for each violation by a fine not to exceed $500 or by imprisonment in the County jail not to exceed 60 days or by both such fine and imprisonment. Each incident or separate occurrence that violates this ordinance shall be deemed a separate offense. Each day that an offense or violation of this ordinance continues shall be deemed

a separate offense.

SECTION 15. EFFECTIVE DATE. This Ordinance shall take effect upon a certified copy thereof being filed with the Florida Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, State of Florida, this 18 day of MAY, 1999.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: Marc A. Jacalone
Marc A. Jacalone, Chairman

ATTEST: CHERYL STRICKLAND, CLERK

BY: Patricia DeGrande
Deputy Clerk

Effective date: _____

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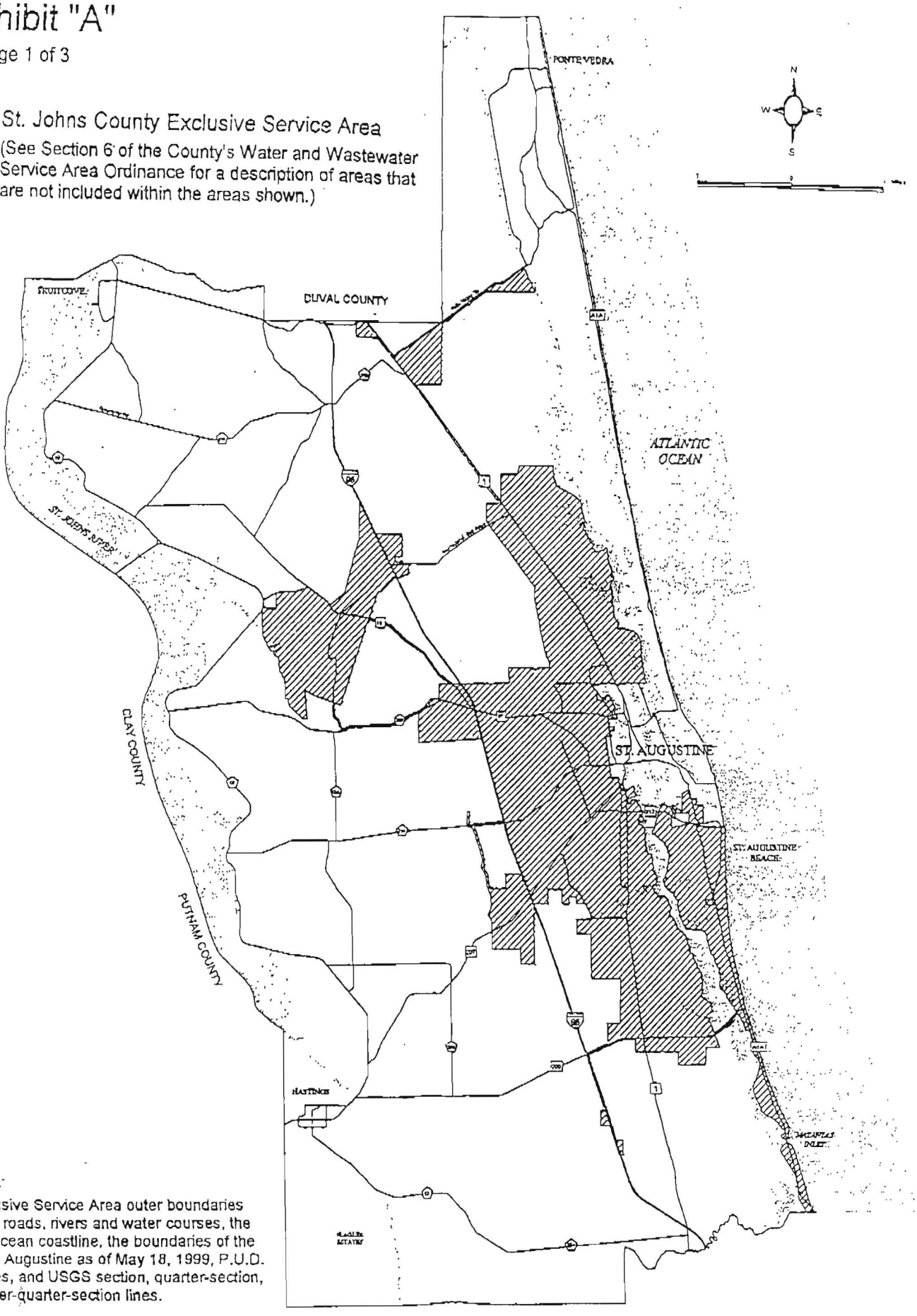
Exhibit "A"

Page 1 of 3

St. Johns County Exclusive Service Area

(See Section 6 of the County's Water and Wastewater Service Area Ordinance for a description of areas that are not included within the areas shown.)



NOTES:

The Exclusive Service Area outer boundaries consist of roads, rivers and water courses, the Atlantic Ocean coastline, the boundaries of the City of St. Augustine as of May 18, 1999, P.U.D. boundaries, and USGS section, quarter-section, and quarter-quarter-section lines.

See also pages 2 and 3 of this exhibit.

333-
22222

Exclusive Service Area Legal Description

In Township 4 South, Range 29 East:

Those lands in sections 31 and 32 lying 200 feet north and 200 feet south of the center line S.R.210, also known as Palm Valley Road. Those lands in of section 29 lying south and 200 feet north of the center- line of S.R.210. Those lands in of section 51 lying south and 200 feet north of S.R.210, and bounded on the east by the Intercoastal Waterway. Those lands in of section 55 bounded on the north by a line parallel to and 200 feet north of S.R.210 on the south by the easterly extension of the north line of section 32 and on the east by the Intercoastal Waterway.

In Township 5 South, Range 28 East:

All of section 12, those lands in of sections 1 and 2 lying southeast of S.R.210. The north half of section 3 lying southwest of US1. Those lands in section 11 lying northeast of US1 and southeast of S.R.210. Together with a corridor 400 feet extending northeast and 200 feet southwest of the centerline of US1 in sections 3, 11, 13, 24, 37, and 45.

In Township 5 South, Range 29 East:

All of sections 33, 34, 44, 45, 48, 53, 54, 55, 56, 57, 58, and 59. Those lands in sections 60 and 61 lying south of a line parallel to and 2250 feet north of the south line sections 60 and 61 together with a 400 foot corridor extending 200 feet northeast and 200 feet southwest of US1 in sections 19, 30, 32, 40, and 41.

In Township 6 South, Range 27 East:

All those lands in sections 24, 25, and 46, described in the Six-Mile Creek P.U.D.

In Township 6 South, Range 28 East:

All those lands in sections 3, 10, 11, 14, 15, 38, 43, and 44, described in the World Golf Village P.U.D., all those lands in sections 18, 19, 31, 37, and 38, described in the Six-Mile Creek P.U.D., those lands in sections 37 and 38 lying east of the Six Mile Creek P.U.D. and west of a line parallel to and one mile northwest of the southeast line of section 38, those lands in section 38 bounded on the southeast by International Golf Parkway, on the southwest by S.R. 16, on the northeast by the World Golf Village P.U.D. and on the northwest by a line parallel to and 2,500 feet northwest of International Golf Parkway, those lands in section 38 lying south of S.R. 16 and north of the Six Mile Creek P.U.D., together with a 400 foot corridor extending 200 feet northeast and 200 feet southeast of S.R.16 in sections 25, 26, 36, 38, and 41

In Township 6 South, Range 29 East:

All of sections 3, 4, 10, 23, 26, 35, 36, 44, 45, 49, 50 - 57, 79 - 84, 86 - 96, 98, and 99, those lands in that portion of the east half of section 5 lying northeast of a line parallel to and 4000 feet southeast of US1, together with those lands in section 15 lying southeast of the proposed S.R.312 extension, those lands in sections 22 and 27 lying east of the proposed S.R.312 extension, together with the south half of sections 33 and 34, those lands in that portion of the north half of section 34 lying east of the proposed S.R.312 extension, together with a 400-foot corridor lying 200 feet northeast and 200 feet southwest of S.R16 in section 31.

In Township 7 South, Range 28 East:

All of section 12, the south half and the east half of the northeast quarter of section 1, those lands in sections 6, 38, and 41, described in the Six Mile Creek P.U.D, together with those lands in section 41 lying west of a line parallel to and 1 mile northwest of the southeast line of sec 41, together with a 400 foot corridor lying 200 feet north and 200 feet south of C.R. 208 in sections 9, 10, 11, and 37, and a 400 foot corridor lying 200 feet east and 200 feet west of the center line of Pacetti Road

In Township 7 South, Range 29 East:

All of sections 2-11, 14-16, 21-23, 25-28, 34- 40, 42-44, 46-49, 53, 54, and 55, those lands in sections 1, 12, 24, 41, 45, 50, 51, 52, and 56 lying outside the established city limits of St. Augustine as of May 18, 1999, together with a 400 foot corridor lying 200 feet north and 200 feet south of the center line of C.R.214 in section 29 and section 30, east of the Water Treatment Plant Road, and a 400 foot corridor lying 200 feet east and 200 feet west of the center line of Water Treatment Plant Road in the southeast quarter of section 30, and a 400 foot corridor lying 200 feet east and 200 feet west of Allen Nease Road, in section 31 and 32.

In Township 7 South, Range 30 East:

All of sections 31-34, and 42, together with those portions of sections 19, 28, 29, and 40, lying outside the city limits of St. Augustine, as of May 18, 1999.

In Township 8 South, Range 29 East:

All of sections 1, 2, 3, 9, 12, 13, 16, 24, 37, and 38, the south half of section 4, the north half of section 4 lying east of I-95, all of section 8 lying east of Allen Nease Road, the northwest quarter of section 10, the northeast quarter, the southeast quarter lying northeast of Wildwood Drive, the north half of the northwest quarter, and the southwest quarter of the northwest quarter, all in section 11, the northeast quarter of section 21 and the southeast quarter of section 36, together with a 400 foot corridor lying 200 feet east and 200 feet west of the center line of Allen Nease Road in sections 5, 8, and 17.

In Township 8 South, Range 30 East:

All

In Township 9 South, Range 29 East:

The east half of the southwest quarter of section 13, the east half of the southeast quarter of section 24, the northeast quarter of section 1 lying north of S.R.206, together with a 400 foot corridor lying 200 feet north and 200 feet south of the center line of S.R.206 in section 1 and section 2 northeast of I-95, and the right of way of I-95 in sections 11, 12, 13, 24, and in section 2 lying south of S.R.206.

In Township 9 South, Range 30 East:

All of sections 4 and 48, the north half of section 5, the northwest quarter of section 6, together with that portion of the northwest quarter of section 6 lying within 200 feet of the center line of S.R.206. Also, all those lands lying east of the Mantanzas River.

In Township 9 South, Range 31 East:

All those lands lying east of the Mantanzas River.

STATE OF FLORIDA

COUNTY OF ST. JOHNS

I, CHERYL STRICKLAND, CLERK OF THE CIRCUIT COURT, Ex-officio, Clerk of the Board of County Commissioners of St. Johns County, Florida,

DO HEREBY CERTIFY that the foregoing is a true and correct copy of the following:

ORDINANCE NO. 99-36

adopted at a regular meeting of the Board of County Commissioners of St. Johns County, Florida on May 18, 1999.

as the same appears of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 18th day of May 1999.

CHERYL STRICKLAND,
CLERK OF THE CIRCUIT COURT
Ex-officio Clerk of the Board of County
Commissioners of St. Johns County, Florida

(seal)

By: Patricia DeGrande
Patricia DeGrande, Deputy Clerk