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ORIGINAL

ADMINISTRATIVE LAW
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January 26, 2001

VIA HAND DELIVERY

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01 JAN 26 PM 3:40
RECORDS AND REPORTING

Ms. Blanca Bayo, Director
Division of Records and Reporting
Florida Public Service Comm.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 990696-WS - Application by Nocatee Utility Corporation for original certificates for water and wastewater service in Duval and St. Johns Counties, Florida.

Docket No. 992040-WS - Application for certificates to operate a water and wastewater utility in Duval and St. Johns County by Intercoastal Utilities, Inc.

Dear Ms. Bayo:

Attached please find the original and fifteen copies of the Supplemental Intervenor Testimony of William G. Young to be filed in the above dockets on behalf of St. Johns County, Florida. Also enclosed is an extra copy to be stamped as filed and returned to our office.

Thank you for your assistance in this matter. Should you have any questions concerning this filing, please contact me.

Very truly yours,

Suzanne Brownless
Attorney for St. Johns County,
Florida

RECEIVED & FILED

Man
FPSC-BUREAU OF RECORDS

APP
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cc: Bill Young
Brian Armstrong, Esq.
Jim Sisco, Esq.
Don Mauer, P.E.

DOCUMENT NUMBER-DATE

01233 JAN 26 01

FPSC-RECORDS/REPORTING

ORIGINAL

**SUPPLEMENTAL INTERVENOR TESTIMONY OF
WILLIAM G. YOUNG
ON BEHALF OF
ST. JOHNS COUNTY, FLORIDA**

JANUARY 26, 2001

**DOCKET NO. 990696-WS
DOCKET NO. 992040-WS**

**Suzanne Brownless
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301
(850) 877-5200
FAX: (850) 878-0090**

ATTORNEY FOR ST. JOHNS COUNTY

DOCUMENT NUMBER-DATE

01233 JAN 26 01

FPSC-RECORDS/REPORTING

**SUPPLEMENTAL INTERVENOR TESTIMONY OF
WILLIAM G. YOUNG
ON BEHALF OF
ST. JOHNS COUNTY, FLORIDA**

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**DOCKET NO. 990696-WS
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**Suzanne Brownless
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301
(850) 877-5200
FAX: (850) 878-0090**

ATTORNEY FOR ST. JOHNS COUNTY

DOCUMENT NUMBER-DATE

01233 JAN 26 2001

FPSC-RECORDS/REPORTING

1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

2 A. My name is William G. Young and my business address is
3 P.O. Drawer 3006, St. Augustine, Florida 32085.

4 Q. WHAT IS YOUR POSITION WITH ST. JOHNS COUNTY?

5 A. I am the Director of the Utilities Department for the
6 County.

7 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE?

8 A. I am a graduate of the University of Florida earning a
9 Bachelor of Arts degree in political science in 1986. I
10 received a Master's degree in Public Administration from
11 the University of North Florida in 1995. I have worked
12 for the County Utility Department from June of 1985 until
13 the present in a series of jobs with increasing
14 responsibility moving from water plant operator to water
15 treatment supervisor (10 years) to assistant utility
16 director (5 years) and finally to director in early 2000.
17 My resume is attached as Exhibit (____) WGY-1 to this
18 testimony.

19 Q. ARE YOU A MEMBER OF ANY TRADE OR PROFESSIONAL
20 ORGANIZATIONS?

21 A. Yes, I am a member of the American Water Works
22 Association (AWWA), Florida Water Environmental
23 Association (FWEA) and the Florida Water Pollution
24 Control Operators Association (FWPCOA).

25 Q. HAVE YOU EVER TESTIFIED BEFORE A COURT OR REGULATORY
26 AGENCY?

1 A. Yes. I testified before the St. Johns County Water and
2 Sewer Authority in Docket No. 99-0007-00002, In re:
3 Intercoastal Utilities, Inc. Application for Extension of
4 Service Area, in the summer of 1999. At that proceeding
5 I was accepted as an expert in utility operations,
6 utility management and utility planning.

7 Q. WHAT ARE YOUR PRESENT DUTIES AS DIRECTOR OF THE UTILITY
8 DEPARTMENT FOR THE COUNTY?

9 A. I administer the operation of the County's water,
10 wastewater and reuse facilities which provide service to
11 approximately 40,000 customers and employs 79 full time
12 positions. This requires that I oversee the compilation
13 and implementation of both operations and capital
14 budgets, as well as formulation of short and long range
15 plans for service expansion. In addition, I am
16 responsible for the supervision of all division heads in
17 the water, wastewater and reuse facilities.

18 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

19 A. To provide rebuttal testimony regarding the Agreement for
20 Wholesale Utilities, Operations, Management and
21 Maintenance Between JEA and Nocatee Utility Corporation
22 dated July 24, 2000 (JEA/NUC Agreement) sponsored by
23 Douglas C. Miller in his Supplemental Direct Testimony
24 filed on July 31, 2000.

25 Q. PLEASE DESCRIBE THE BASIC TERMS OF THIS AGREEMENT.

26 A. The basic terms of the JEA/NUC Agreement are as follows:

- 1 1. JEA agrees to supply water and wastewater treatment
2 to the entire Nocatee development until the earlier
3 of: a) the Utility System, as defined in paragraph
4 4 below, is sold; b) the Florida Public Service
5 Commission (FPSC) denies Nocatee a certificate or
6 c) all phases of the development are complete, but
7 not for less than a 25 year period. [¶ 1.6, 6.3]
- 8 2. JEA agrees to provide operation, management and
9 maintenance service for NUC, including billing and
10 collection services, as well as monitoring for
11 compliance with environmental acts (backflow
12 prevention, industrial pretreatment, signage for
13 reclaimed and supply water systems, monitoring of
14 reclaimed water system to prevent discharge into
15 groundwater or other body of water, monitoring
16 installation of potable water irrigation systems
17 and meters) for a 10 year initial term,
18 automatically extended for 3 successive terms of 5
19 years each unless terminated by either party by
20 giving one year's written notice. [¶ 6.1, 6.3]
- 21 3. "Joint Projects" are "regional" water, sewer and
22 reclaimed water facilities designed and permitted
23 by NUC and contributed to JEA to serve Nocatee and
24 "other customers or potential customers of JEA."
25 [¶ c, 8.1] Substantial portions of Phase I
26 consisting of large diameter sewer, water and reuse

1 lines which run from Duval County across the county
2 line into St. Johns County are classified as a
3 Joint Project. [¶ C.] Joint Projects will be
4 owned completely by JEA. [¶ 3]

5 4. "Utilities System" is comprised of facilities not
6 owned by JEA ("Joint Project, JEA System) used to
7 provide water, reuse and wastewater services to the
8 development that is owned by Nocatee. [¶ H.]

9 5. JEA has the right of first refusal to buy the
10 Utilities System. However, JEA does not have to
11 buy any facilities located in Duval County. If JEA
12 does not buy the small portion of the water, reuse
13 and wastewater facilities providing service to the
14 Nocatee development that it does not already own,
15 on sale to a third party, JEA gets all Duval
16 facilities at no cost. [¶ 2.]

17 6. JEA provides its bulk water and wastewater and O&M
18 services to NUC for 80% of JEA's applicable uniform
19 published residential, commercial water, wastewater
20 and reclaimed water rates. [¶ 7.2] Meter fees,
21 capacity fees and service availability charges for
22 JEA are passed on to Nocatee customers with
23 Nocatee's mark-up, if any, embedded in Nocatee's
24 FPSC approved rates. [¶ 7.3]

25 Q. HOW DO THE SERVICES THAT JEA INTENDS TO PROVIDE NOCATEE
26 UNDER THE JEA/NUC AGREEMENT DIFFER FROM JEA PROVIDING

1 DIRECT RETAIL SERVICE TO RESIDENTS OF THE NOCATEE
2 DEVELOPMENT?

3 A. There is no difference. In fact, it is clear that JEA
4 and NUC have attempted to structure their Agreement with
5 the minimum investment by NUC in water, reuse and sewer
6 distribution and collection lines necessary to invoke the
7 FPSC's cross-county jurisdiction pursuant to §367.171(7),
8 Florida Statutes. Nocatee Utility Corporation is doing
9 virtually nothing toward actually providing water and
10 wastewater services to the Nocatee Development.

11 Q. DOES JEA HAVE THE INHERENT AUTHORITY TO PROVIDE RETAIL OR
12 WHOLESALE WATER AND WASTEWATER SERVICE OUTSIDE OF DUVAL
13 COUNTY?

14 A. No. The Jacksonville Electric Authority (JEA) was
15 originally created by a special act of the Florida
16 legislature in 1967. Chapter 67-1569, which contains the
17 charter of JEA, established JEA as a "body politic and
18 corporate" and was organized to "own, manage and operate
19 an electric utilities system in the City of Jacksonville
20 and in any or all counties adjacent thereto." [Emphasis
21 added.]

22 In 1978, the charter of JEA, was incorporated in the
23 charter of the consolidated City of Jacksonville by the
24 passage Chapter 78-538. As in its original charter,
25 Chapter 78-538 only empowered JEA to "own, manage, and
26 operate an electric utilities system in the City of

1 Jacksonville and in any or all counties adjacent
2 thereto." [Emphasis added.]

3 In 1992, the charter of the consolidated City of
4 Jacksonville was reenacted as Chapter 92-341. Chapter
5 92-341 reenacted the 1967 Charter and all revisions,
6 modifications and amendments made to that charter since
7 its original adoption. Chapter 92-341 establishes the
8 City of Jacksonville as a consolidated government
9 pursuant to Article VII, section 9 of the Florida
10 Constitution of 1885, continued by Article VIII, section
11 6(e) of the Florida Constitution of 1968.

12 By enactment of Chapter 92-341, the consolidated
13 government of the City of Jacksonville was granted
14 jurisdiction as a chartered county government and as a
15 municipality throughout Duval County except in
16 Jacksonville Beach, Atlantic Beach, Neptune Beach and the
17 Town of Baldwin. In sum, the consolidated City of
18 Jacksonville has all the powers that a county or
19 municipality has or may be granted by the Florida
20 Constitution and/or general laws of the State of Florida.

21 While Chapter 92-341 gives the Jacksonville City
22 Council the authority to repeal or amend any provision of
23 the City Charter by ordinance, the Council may not amend
24 sections which deal with the exercise of extraterritorial
25 powers by municipalities.

26 None of the provisions of Chapters 67-1569, 78-538,

1 or 92-341 authorizes JEA to operate, own or acquire
2 water, reuse or wastewater facilities outside of the
3 jurisdictional territory of the consolidated government,
4 i.e., Duval County. The special act that creates JEA
5 authorizes JEA to own and operate an electric utility
6 system. The Florida Legislature has not enacted any
7 legislation that authorizes JEA or the City of
8 Jacksonville to own or operate water, wastewater or reuse
9 facilities in St. Johns County without the consent of St.
10 Johns County via County Commission action or interlocal
11 agreement.

12 Article 21 of the Jacksonville Municipal Code
13 purports to grant JEA the ability to acquire, construct,
14 own, operate and finance electric, water, sewer, natural
15 gas and "other utility systems". However, these
16 provisions are void in so far as they purport to
17 authorize the unilateral provision of water, wastewater
18 or reuse services in other counties without an interlocal
19 agreement since they are outside the scope of the City of
20 Jacksonville's consolidated government charter and
21 contrary to Article VIII, §2(c) of the Florida
22 Constitution, which requires that there be specific
23 general or special law for the exercise of
24 extraterritorial municipal powers. No such special or
25 general law granting JEA the ability to provide water,
26 reuse and/or sewer services outside of Duval County

1 exists.

2 Q. HAS THE ABILITY OF JEA TO PROVIDE WATER AND WASTEWATER
3 SERVICES TO ST. JOHNS COUNTY BEEN ADDRESSED?

4 A. Yes. JEA has tacitly acknowledged that it has no
5 independent authority to provide water and wastewater
6 retail services in St. Johns County in two separate
7 documents executed within the last two years.

8 In the Water and Wastewater Utility Service
9 Agreement Between JEA and St. Johns County executed on
10 April 13 and 20, 1999, respectively, ¶ 4.4 states: "JEA
11 agrees that it shall not provide retail service to the
12 Service Area [Walden Chase, Marshall Creek and Allen
13 Nease High School] without the prior approval of St.
14 Johns County." The Water and Wastewater Utility Services
15 Agreement Between JEA and St. Johns County is attached as
16 Exhibit _____ (WGY-2).

17 Likewise, in order to purchase the JCP Utility
18 Company (JCP), a small investor-owned water and
19 wastewater company located totally within St. Johns
20 County, JEA entered into St. Johns County/JEA Water and
21 Wastewater Interlocal Agreement dated July 20, 1999
22 (Interlocal Agreement). The ability of JEA to provide
23 water and wastewater services within St. Johns County is
24 addressed in several sections of the Interlocal
25 Agreement.

26 Section 2.1 states:

1 JEA Service Territory. The County
2 agrees that JEA may provide retail
3 and wholesale water and wastewater
4 services within the [JPC] Service
5 Territory during the term of this
6 Agreement. JEA shall not hereafter
7 serve or offer to serve any other
8 customer located on lands within St.
9 Johns County, Florida, which lie
10 outside of the Service Territory
11 unless the County and JEA agree in
12 writing to do so.

13
14 [Emphasis added.]

15
16 Section 2.2 states:

17
18 Limitations on JEA Service
19 Territory. The County and JEA agree
20 that the rights of JEA to provide
21 water and wastewater services in St.
22 Johns County are limited by this
23 Agreement to the [JPC] Service
24 Territory. If JEA wishes to extend
25 service in St. Johns County outside
26 of the Service Territory, any such
27 extension must be accomplished with
28 the specific authorization of the
29 County and as more specifically set
30 forth in Section 3 below.

31
32 [Emphasis added.]

33 Section 3.1 states as follows:

34
35 Extension Wholly Within St. Johns
36 County. Except as provided by
37 Section 2.3, if JEA wishes to extend
38 the [JPC] Service Territory to
39 include additional areas wholly
40 within the boundaries of St. Johns
41 County, application shall be made to
42 the Authority or the Board,
43 whichever is appropriate in
44 accordance with the County's
45 ordinances and rules, as amended
46 from time to time. The decision by
47 the Board to permit or deny such
48 extension shall be based upon the
49 public interest as determined in the
50 discretion of the Board.

1 [Emphasis added.]
2

3 Section 3.2 states as follows:
4

5 **Extension Not Wholly Within St.**
6 **Johns County.** If JEA wishes to
7 extend the [JPC] Service Territory
8 to include additional areas which
9 lie in both the political boundaries
10 of St. Johns County and any other
11 county, application shall be made
12 directly to the Board, except as
13 provided by Sections 2.3 and 2.4.
14 The decision of the Board to permit
15 or deny such extension in St. Johns
16 County shall be based upon the
17 public interest as determined in the
18 discretion of the Board.
19

20 Finally, Paragraph 8 of the Recitals states: "JEA
21 agrees that it will not seek to provide or extend
22 water and wastewater services in St. Johns County
23 without the County's prior written approval except as
24 provided by Sections 2.3 and 2.4."

25 Section 2.3 states as follows:
26

27 **JEA Bulk (Wholesale) Service.**
28 Notwithstanding anything to the
29 contrary stated in Sections 2.1 and
30 2.2, or elsewhere in this Agreement,
31 JEA reserves the right to provide
32 bulk and/or contract operations
33 service to any utility not regulated
34 by the County. The County reserves
35 the right to object to the
36 certification proceeding for any
37 private utility before the Florida
38 Public Service Commission, and to
39 object to the extension of service
40 territory by any governmental or
41 private utility or the establishment
42 of any not-for-profit entity.
43

44 Section 2.4 states as follows:
45

1 JEA/DDI Agreement. The parties
2 recognize that there are issues
3 which have not been resolved with
4 regard to the JEA/DDI Agreement. A
5 copy of said agreement is attached
6 as Exhibit "C". Nothing contained
7 in this Agreement shall be construed
8 as an agreement by JEA to limit its
9 ability to exercise the right of
10 first refusal under the JEA/DDI
11 Agreement. Furthermore, nothing
12 contained in this Agreement shall be
13 construed to prohibit or restrict
14 the County from withholding its
15 consent or objecting to the
16 provision of retail service by JEA
17 or DDI or its successors.

18
19 The St. Johns County/JEA Water and Wastewater
20 Interlocal Agreement is attached as Exhibit _____
21 (WGY-3).

22 Q. SECTION 2.3 CITED ABOVE APPEARS TO GIVE JEA THE RIGHT
23 TO PROVIDE BULK OR CONTRACT OPERATIONS TO ANY UTILITY
24 NOT REGULATED BY THE COUNTY. DOESN'T THIS LANGUAGE
25 ALLOW JEA TO PROVIDE SERVICE TO NUC IN ST. JOHNS
26 COUNTY?

27 A. No. This language simply "reserves the right" of JEA
28 to provide such service, the County has not agreed to
29 allow JEA to do so. This is clear from the last
30 sentence of Section 2.3 which "reserves the right" of
31 the County "to object to the extension of service
32 territory by any governmental or private utility or
33 the establishment of service area by any not-for-
34 profit entity."

35 Q. WHAT ACTIONS WOULD JEA HAVE TO TAKE TO PROVIDE RETAIL

1 SERVICE IN ST. JOHNS COUNTY IN ITS OWN RIGHT?

2 A. Pursuant to County Ordinance 99-36, JEA would be
3 required to seek approval from either the St. Johns
4 County Water and Sewer Authority or the St. Johns
5 County Board of County Commissioners in order to
6 provide retail service in St. Johns County. As an
7 alternative, JEA could enter into another interlocal
8 agreement with St. Johns County pursuant to Chapter
9 163, Florida Statutes.

10 Q. HAS EITHER JEA OR NUC REQUESTED PERMISSION FROM THE
11 ST. JOHNS COUNTY WATER AND SEWER AUTHORITY OR THE ST.
12 JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS TO SERVE
13 THAT PORTION OF THE NOCATEE DEVELOPMENT LOCATED WITHIN
14 ST. JOHNS COUNTY?

15 A. No. On the contrary, Nocatee has consistently taken
16 the position, originally in Docket No. 99-0007-00002,
17 In re: Intercoastal Utilities, Inc. Application for
18 Extension of Service Area, that it would be an
19 independent, investor-owned utility serving two
20 counties subject only to the jurisdiction of the FPSC.

21 Q. GIVEN THE EXTENSIVE SERVICES PROVIDED BY JEA TO NUC,
22 JEA'S ANNOUNCED INTENTION TO BECOME A REGIONAL UTILITY
23 AND JEA'S RIGHT OF FIRST REFUSAL, IS IT YOUR OPINION
24 THAT NUC IS IN FACT AN INDEPENDENT UTILITY?

25 A. No. When the entire JEA/NUC Agreement is considered
26 as a whole in the light of JEA's publicly expressed

1 desire to become a regional utility, it is clear that
2 NUC is a strawman for JEA. In short, NUC is
3 purporting to allow JEA to do what neither JEA nor NUC
4 can do without the express approval of St. Johns
5 County: provide water, reuse and wastewater to St.
6 Johns County residents.

7 **Q. IF JEA APPLIED TO THE FPSC FOR A WATER AND WASTEWATER**
8 **CERTIFICATE UNDER §§367.045 AND 367.171(7), FLORIDA**
9 **STATUTES, COULD ITS APPLICATION BE GRANTED?**

10 A. No. Section 367.022(2), Florida Statutes, excludes
11 from FPSC jurisdiction "systems owned, operated,
12 managed, or controlled by governmental authorities,
13 including water or wastewater facilities operated by
14 private firms under water or wastewater facility
15 privatization contracts as defined in s. 153.91, and
16 nonprofit corporations formed for the purpose of
17 acting on behalf of a political subdivision with
18 respect to a water or wastewater facility". As
19 discussed above, JEA is a municipal corporation and
20 therefore not subject to the FPSC's regulatory
21 jurisdiction by virtue of §367.022(2), Florida
22 Statutes.

23 **Q. IN LIGHT OF THESE FACTS, WHAT ACTION SHOULD THE FPSC**
24 **TAKE WITH REGARD TO NUC'S APPLICATION?**

25 A. The FPSC should deny NUC's application and by so doing
26 require JEA to follow the existing St. Johns County

1 procedures for securing the right to provide retail or
2 wholesale water and wastewater services to 24,000
3 acres in St. Johns County.

4 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

5 A. Yes.

6

7

8

9

10

11 c: 3287

WILLIAM G. YOUNG
8 Seminole Drive
St. Augustine, Florida 32095
Phone (904) 823-3610

**CAREER
OBJECTIVE:**

To utilize my knowledge and experience in public utility administration while contributing to the effectiveness and commitment to excellence of a modern public utility.

EDUCATION:

- Received Masters Degree in Public Administration (MA) from University of North Florida, Jacksonville, 1995
- Received Bachelor of Arts Degree from University of Florida, Gainesville, 1986 (Major: Political Science)
- Received Associate of Arts Degree from St. Johns River Community College, Palatka, Florida, 1980

**WORK
EXPERIENCE:**

February 1999 -
Present

DIRECTOR OF UTILITIES

St. Johns County Utility Department, P.O. Drawer 3006, St. Augustine, Florida 32085

Directs administration and operation of water, wastewater, and reuse utility which serves approximately 40,000 customers and employs 85 full-time positions. Oversees compilation and implementation of both operations and capital budgets. Coordinates closely with County Commission and County Administrator on long range strategy and policy implementation regarding service expansion and continuous utility improvement.

October 1995 -
February 1999

ASSISTANT UTILITY DIRECTOR

St. Johns County Utility Department, P.O. Drawer 3006, St. Augustine, Florida 32085

Assisted Director in administration and operation of water, wastewater, and reuse utility, which serves approximately 40,000 customers and employs 75 full-time positions. Responsible for compilation and implementation of both operations and capital budgets, as well as formulation of short and long range plans for service expansion. Supervised division heads in water, wastewater, and reuse operations.

June 1985 -
October 1995

WATER TREATMENT SUPERVISOR

St. Johns County Utility Department, P.O. Drawer 3006, St. Augustine, Florida 32085

Directly responsible for proper operation of Class "A" water treatment plant and distribution to more than 30,000 customers. Supervised 12 operators and an annual operating budget of \$1.5 million dollars.

March 1989 -
Present

WATER PLANT OPERATOR

Camachee Cove Water System, 3070 Harbor Drive, St. Augustine, Florida 32095

Oversees and maintains small water plant system. Job includes compliance, record keeping and operation of a 60,000 gallon per day Reverse Osmosis Plant.

WILLIAM G. YOUNG
8 Seminole Drive
St. Augustine, Florida 32095
Phone (904) 823-3610

June 1984 -
March 1991

ENVIRONMENTAL SUPPORT SPECIALIST
202nd Civil Engineering Squadron, Florida Air National Guard, Route 1,
Box 485, Camp Blanding, Starke, Florida 32091
Non-commissioned officer and trainer in both water and wastewater
technologies.

**SKILLS AND
MEMBERSHIPS:**

- Advanced computer training in Word Perfect 6.1, Lotus 1-2-3 and Dbase IV
- Member:
 - American Water Works Association (A.W.W.A.), Regional Vice Chairman 1999
 - Florida Water Pollution Control Operators Association (F.W.P.C.O.A.)
 - University of North Florida Public Administration Honor Society (Pi Alpha Alpha)
 - St. Augustine Rotary Club
 - Historic St. Augustine Toastmasters Club
- Board of Directors:
 - Association For Retarded Citizens of St. Johns County
 - St. Augustine YMCA
 - St. Johns County Education Foundation
- Awarded 1993 A.W.W.A. Roy Likins scholarship
- St. Johns County Team Captain for March of Dimes 1995-1999

REFERENCES:

Donald E. Maurer, P.E.
Camp Dresser and McKee Inc.
6650 Southpoint Parkway, Suite 330
Jacksonville, Florida 32216
Tel. (904) 281-0170

Theodore J. Stumm, Ph.D
Coordinator M.P.A. Program
University of North Florida
4567 St. Johns Bluff Road, South
Jacksonville, Florida 32224-2654
Tel. (904) 646-2977

Others furnished upon request

April 13, 1999

WATER AND WASTEWATER UTILITY SERVICES AGREEMENT

BETWEEN

JEA

AND

ST. JOHNS COUNTY

WATER AND WASTEWATER UTILITY SERVICES AGREEMENT

THIS AGREEMENT is made as of this ___ day of April, 1999 between JEA, a public body corporate and politic of the State of Florida, and ST. JOHNS COUNTY, a political subdivision of the state of Florida (the "County").

W I T N E S S E T H:

WHEREAS, JEA is in the business, among others, of constructing and operating water and wastewater facilities and systems and providing water and wastewater utility services; and

WHEREAS, JEA is developing a reuse system to facilitate the reuse of wastewater; and

WHEREAS, the County wishes to procure wholesale water and wastewater utility services from JEA and to have JEA construct certain water and wastewater facilities and to operate JEA's water and wastewater systems in connection with the provision of such services to the County; and

WHEREAS, the capacity of JEA's existing water and wastewater treatment plants exceed current usage such that there is sufficient capacity to provide water and wastewater services to the County, and JEA desires to provide these services to the County, and is willing to construct the necessary water and wastewater facilities and operate the systems to deliver such services to the County on the terms and conditions set forth herein; and

WHEREAS, the County and JEA also wish to (1) explore mutually beneficial opportunities to improve the efficiency of the water and wastewater utility systems, (2) provide an efficient, environmentally sound means for planning, designing, and constructing regional water and sewer transmission facilities and (3) establish the basis for future alliances beneficial to both the County and JEA;

NOW, THEREFORE, it is hereby mutually agreed as follows:

1. CERTAIN DEFINITIONS

The following terms shall have the meanings set forth below:

1.1 “Developer” shall mean a Person who, for residential, governmental, commercial or industrial use, has developed real property within the Service Area by constructing thereon, among other things, adequate facilities for the distribution of Water to and collection of Wastewater from individual sites within the boundaries of the real property comprising the development.

1.2 “Facilities” means the Water Facilities and Wastewater Facilities as defined herein. “Duval Facilities” means that portion of the Facilities residing within Duval County. “St. Johns County Facilities” means that portion of the Facilities residing within St. Johns County.

1.3 “Party” shall mean JEA or the County; “Parties” shall mean JEA and the County.

1.4 “Person” shall include governmental, non-profit, business and professional entities, however organized.

1.5 “Project” shall mean the construction of that portion of the Facilities set forth in Exhibits A and B hereto. The Project may be limited in the manner set forth in Section 2.1 to Option 1, Option 2, and/or Option 3 as attached herein on Exhibits A and B.

1.6 “Service Area” shall mean the area anticipated by the Parties to be eventually served under this Agreement as shown on Exhibit A. The “Phase I Area” shall mean the area shown on Exhibit A and anticipated by the Parties to be served first under this Agreement and includes Allen D. Nease High School. The “Phase II Area” shall mean the area shown on Exhibit A and which the Parties recognize may, depending upon circumstances, be

included in this Agreement.

1.7 "Project Costs" shall mean JEA's costs in connection with design, permitting and construction of the St. Johns County Facilities. "Phase I Costs" shall mean JEA's costs in connection with design, permitting and construction of the St. Johns County Facilities in the Phase I Area. "Phase II Costs" shall mean JEA's costs in connection with design, permitting and construction of the St. Johns County Facilities in the Phase II Area. Project Costs shall also include JEA's costs attributable to increasing the size of the necessary sewer line in Duval County from 12 inches to 16 inches. This cost shall be included as a cost in Phase I.

1.8 "Services" shall mean the provision and transport of wholesale Water and the transport and processing and disposal of wholesale Wastewater by JEA through the Facilities to and from, as the case may be, the Service Area for the County's use in providing retail service in the Service Area.

1.9 This section intentionally left blank.

1.10 "Wastewater" or "Sewage" means the combination of the liquid and water-carried pollutants from a residence multifamily, commercial building, industrial plant, or institution.

1.11 "Wastewater Facilities" means the sewers, mains, pipes, pumps, connections and other property used to transport Wastewater or Sewage in the Service Area as set forth on Exhibits A and B.

1.12 "Wastewater System" means the transporting and processing of Wastewater and includes the Wastewater Facilities and other property used to transport and process and dispose of Wastewater in servicing the Service Area.

1.13 "Water" means potable water meeting the applicable federal, state, and local

laws and regulations for human consumption, fire protection, irrigation and consumption by business and industry.

1.14 "Water Facilities" means the pumps, meters, mains, pipes, connections, and other property, used to provide Water to serve the applicable Service Area.

1.15 "Water System" means the Water Facilities, and other property, used to provide Water which shall have at least capacity of one million five hundred thousand (1,500,000) gallons per day average annual daily flow available to serve the Project in the Service Area as set forth on Exhibit A and Exhibit B.

2. SCOPE AND TERM OF THE AGREEMENT

2.1 With the exception of section 3.2, this Agreement shall become binding on the date herein provided. JEA shall not be obligated to begin the Project until JEA's reasonable acceptance of the County's notification to JEA that the County has received and accepted an application to the County by a Developer wherein the Developer requests retail water and wastewater services from the County and who states in writing that he or she will be ready, willing and able to connect to the St. Johns Facilities within a reasonable time after construction of the Facilities (the "Effective Date") have been completed (the "Connection Notice"). The County shall designate whether it is exercising Option 1, 2, or 3, and may subsequently issue a Connection Notice for those options not initially exercised. If JEA receives the Connection Notice related to Property in the Phase II Area, prior to the exercise of the Phase I Area, then said Connection Notice shall comprise the entire Service Area. Section 3.2 becomes effective on the date this agreement is executed.

2.2 The term of this Agreement shall be from the date of initial wholesale service of Water by JEA for either Phase of the Project through and including the later of (a) twelve (12) years from said date or (b) the date on which all Project Costs have been fully recovered

by JEA (the "Original Term"), and thereafter, for two five year renewal terms upon mutual agreement of the Parties (the "Renewal Terms") and thereafter until terminated on written notice from either Party to the other of its election to terminate the Agreement, such written notice to be given at least three hundred sixty five days prior to the termination of the Original Term or any Renewal Term.

2.3 Parties agree that the scope of this Agreement may be expanded, by mutual consent by St. Johns County and the Chief Executive Officer of JEA to include other areas in the County.

3. OWNERSHIP AND CONSTRUCTION OF THE FACILITIES

3.1 JEA shall own the Facilities until such time as the County has fully reimbursed JEA for all Project Costs. Upon such reimbursement, JEA shall convey the St. Johns Facilities free and clear of all encumbrances to the County for \$1.00 by means of a deed, bill of sale or other appropriate instrument of conveyance.

3.2 Prior to the Effective Date, JEA will commence design of the Facilities. However, JEA shall be under no obligation to commence permitting or construction of the Facilities until the Effective Date.

3.3 The Parties agree to use all reasonable efforts to substantially complete the Project within the schedule generated by JEA's construction management group, which schedule shall be generated within thirty (30) days from the Effective Date of this Agreement. Annexed as Exhibit C is the proposed schedule for construction of the Facilities.

3.4 The County shall (a) take every reasonable step to assist JEA in design review and obtaining permits, access, and other necessary items as may be needed, from time to time, in the design and construction of the Project; and (b) at such times as may be necessary and expedient to permit JEA to comply with the terms of this Agreement, provide to JEA,

at the County's sole cost, all necessary easements for the construction, use, maintenance, and replacement of the St. Johns Facilities together with such other easements as may be necessary to afford ingress, egress and provision of the Services by grants of easement covering such time as JEA owns said Water and Wastewater Facilities with full warranties of title, free and clear of all liens and encumbrances.

3.5 JEA shall: (a) make all reasonable efforts to meet the schedule date for substantial completion of the Project; and (b) provide to the County all "As-Built" drawings for the Water and Wastewater Facilities in St. Johns County for this Project.

3.6 Notwithstanding anything in this Agreement to the contrary, the County and JEA each hereby waive all rights against the other to monetary damages for any delays in completion of the Project.

3.7 The Facilities shall be designed and constructed in accordance with the respective utility design standards and specifications of the Parties, which are by this reference incorporated herein.

3.8 The Parties may, by mutual consent, make defined changes in the Facilities, which such changes shall each be documented in a written change order, approved in accordance with the policies of the respective governing authorities of JEA and the County. The Parties recognize, however, that such changes may increase the Project Costs and may delay completion of the construction of the Facilities.

4. OPERATION OF THE SYSTEM

4.1 The County hereby appoints JEA the exclusive provider of the Services to the County within the Service Area. JEA shall manage the operation of the Water and Wastewater Systems as a whole, provided, however, that the County shall bear the entire cost of maintaining the St. Johns County Water and Wastewater Facilities and the County

shall bear the entire cost of operating the Water and Wastewater Systems in St. Johns County. JEA shall bear the cost of (a) maintaining the Facilities in Duval County and (b) operating the Systems in Duval County. The Parties agree to carry out their respective responsibilities in accordance with all applicable federal, state and local environmental statutes, laws, ordinances, rules and regulations and in accordance with generally accepted industry practices throughout the term of the Agreement.

4.2 The County shall: (a) provide, or require its customers to provide, backflow preventors for the Water System in accordance with JEA backflow prevention policies and procedures; and (b) ensure, in the event that the County or any of its customers generates industrial waste at any site, that such site will have an approved industrial pretreatment program in place prior to connecting to JEA's Wastewater System, which pretreatment program shall conform to the requirements of both JEA and those of St. Johns County.

4.3 The County shall be responsible for all customer relations, including, without limitation, initiation of service, customer relations and communications, complaints, billing and collections. The County shall charge its customers its uniform published rates for connections.

4.4 JEA agrees that it shall not provide retail service to the Service Area without the prior approval of St. Johns County.

5. PAYMENTS BY THE COUNTY

5.1 The Parties agree that JEA's Project Costs, to be fully recovered by JEA from the County under this Agreement, are as follows:

(a) The Project Costs are Five Million Two Hundred and Twenty Six Thousand Dollars (\$5,226,000.00).

(b) The Phase I Costs are Two Million Eight Hundred and Forty Five

Thousand Dollars (\$2,845,000.00).

(c) The Phase II Costs are Two Million and Three Hundred and Eight One Thousand Dollars (\$2,381,000.00).

5.2 As payment for the Project Costs and for Water and Wastewater Services JEA provides to the County under this Agreement, the County shall pay to JEA as follows:

(a) Until the Project Costs for each separate Phase Area have been fully recovered by JEA, the County shall pay over to JEA quarterly in arrears all legally payable unit connection fees paid to the County for each and every connection made to the Facilities within the applicable Phase Area. Additionally, the County shall pay to JEA monthly in arrears a charge consisting of (1) base Water and Sewer fees and (2) Water and Sewer usage fees measured by the actual flow rate measured at the master water meter based on JEA's then uniform published rate for: (A) a ten (10") inch water meter if the Project is constructed and operated in its entirety from the outset, or (B) an eight (8") inch water meter if the Project is constructed and operated in Phases; provided, however, that Sewer usage fees shall be at JEA's uniform published rate for a limited sewer wholesale customer of the same classification as the Project. The County understands and accepts that JEA's rates, fees and charges may change from time to time during the term of this Agreement.

→ 5.3 After the Project Costs have been fully recovered by JEA for each Phase Area, the County shall pay JEA as follows: (a) for capacity, pay to JEA quarterly in arrears a standard capacity fee for each and every additional connection to the Facilities within the Service Area in accordance with JEA's uniform published rates; and (b) for Water and Sewer usage, pay to JEA monthly in arrears a charge consisting of (1) base Water and Sewer fees and (2) Water and Sewage usage fees measured by the actual flow rate measured at the master water meter based on JEA's then uniform published rate for: (x) a ten (10") inch

water meter if the Project is constructed and operated in its entirety from the outset, or (y) an eight (8") inch water meter if the Project is constructed and operated in Phases; provided, however, that Sewer usage fees shall be at JEA's uniform published rate for a limited wholesale sewer customer of the same classification as the Project. The County understands and accepts that JEA's rates, fees and charges may change from time to time during the term of this Agreement. It is the intent of the Parties that as the Project Costs are paid for each Phase Area, such Phase Area, shall be released from Section 5.2.

5.4 - JEA-covenants that the County will be entitled to the same rates and charges issued to JEA water and wastewater Customers in Duval County for the same rate class.

5.5 Payments for Water and Sewer usage shall be made by the County within thirty (30) days of receipt of JEA's statement. Payments not timely received by JEA shall bear a penalty in accordance with JEA's uniform policies and procedures. JEA shall have the right to audit the books and records of the County and to conduct field investigations with regard to unit connections and associated capacity fees.

5.6 It is understood that the County is not warranting the number of retail customers to be served or the size and capacity specifications for the Water and Wastewater Facilities, and that JEA has relied upon its own expertise in sizing and constructing such Facilities.

6. GENERAL

6.1 JEA shall at all times use reasonable care and act in good faith in performing its duties hereunder.

6.2 No bonding will be required of JEA or the County. Performance and payment bonds will be required of all contractors in accordance with JEA's standard contract provisions.

6.3 JEA and the County both agree that during the term of this Agreement each shall at all times comply with all applicable federal, state or local statutes, laws, ordinances, rules and regulations, including environmental laws and regulations. In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the "Remedial Work") is required pursuant to any applicable federal, state, local law, ordinance, rule or regulation, any judicial order, or by any governmental entity, due to the actions or activities of either party, the party whose actions or activities made the Remedial Work necessary shall bear the responsibility to perform or cause to be performed the Remedial Work in compliance with such law, ordinance, rule or regulation or order. The County agrees and acknowledges that JEA shall not be responsible for any environmental liability within the Service Area resulting from a condition or activity within St. Johns County prior to commencement of the Project.

6.4 JEA shall continuously provide the County with all Water and Wastewater Services needed by the County for the Service Area, provided, however, JEA shall not be liable to the County for any failure to perform or delay in performance hereunder where such failure or delay is occasioned by circumstances beyond JEA's control. JEA shall provide the *pro rata* share to the Service Area of whatever reduced service, if any, that is being provided to or in Duval County arising out of the same cause of the failure or delay in performance.

6.5 JEA and the County shall comply with all applicable federal, state, county and local laws, ordinances, regulations and codes in the performance of this Agreement and shall, by providing timely information to each other, assist each other in complying with such laws to the extent that it is their obligation to so do. All obligations under this Agreement shall be performed in compliance with all applicable legislation and government agency orders and regulation prohibiting discrimination against any employee or applicant for employment

because of race, color, religion, sex, national, origin, age or handicap. Where required by law, certificates of compliance shall be provided. JEA and the County shall comply with the provision of the Fair Labor Standards Act of 1938, as amended, and all other applicable federal, state and local laws.

6.6 All the terms, provisions and conditions of this Agreement shall inure solely to the benefit of and shall be enforceable solely by the Parties hereto and their respective successors and assigns. This Agreement is not intended to and shall not benefit any third party, nor shall any third party have any rights hereunder or as a result of this Agreement or any right to enforce any provisions of this Agreement. No assignments shall be made by either Party without the written consent of the other.

6.7 Subject to the terms and conditions hereof: (a) this Agreement contains the entire understanding of the Parties hereto in respect of the Project; (b) there are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth herein; (c) this Agreement supersedes all prior agreements and understandings between the Parties with respect to such subject matter; (d) this Agreement may be amended only by a written instrument duly executed by the Parties hereto or their respective successors or assigns; and (e) any condition to a Party's obligations hereunder may be waived by such Party.

6.8 All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed by Certified or Registered mail, return receipt requested, postage prepaid.

If to JEA:

Construction and Maintenance, JEA
Vice President
21 West Church Street

Jacksonville, Florida 32202-3139

with a copy to:

The Office of General Counsel of the City of Jacksonville
117 West Duval Street, Suite 480
Jacksonville, Florida 32202.

If to the County:

St. Johns County Utilities
Utility Director
P. O. Drawer 3006
St. Augustine, Florida 32085-3006

The person and address to whom notices are to be delivered or sent may be changed by delivering written notice thereof to the other party in the manner provided above not less than ten (10) days prior to the effective date of said change.

6.9 If any one or more of the covenants, agreements or provisions of this Agreement shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void, and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions of this Agreement.

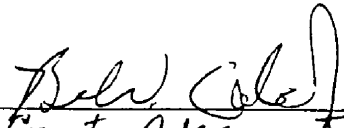
6.10 Except as provided in this Agreement, the rights and obligations of the Parties hereunder are not assignable and may not be transferred without the prior written consent of the other Party hereto, which will not be unreasonably withheld.

6.11 The terms and conditions of this Agreement will be governed by the internal law of the State of Florida.

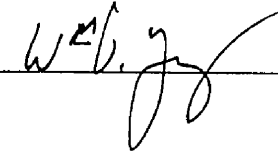
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned parties have duly executed this Agreement as of the date this Agreement is executed on behalf of JEA as indicated below.

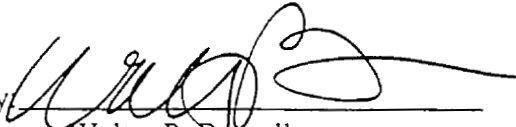
ST. JOHNS COUNTY

By: 
Its: County Administrator
Date: April 13, 1999

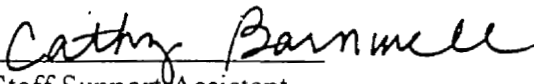
Witnesses:



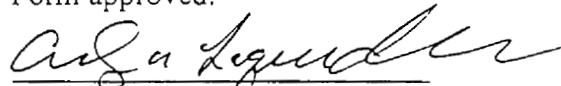
JEA:

By: 
Walter P. Bussells.
Managing Director and
Chief Executive Officer

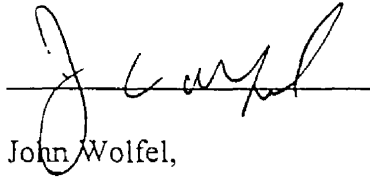
Date: 4-20-99

Attest: 
Staff Support Assistant

Form approved:


Office of General Counsel

I hereby certify that the expenditure contemplated by the foregoing contract has been duly authorized, and provision has been made for the payment of the monies provided therein to be paid.

A handwritten signature in cursive script, appearing to read "John Wolfel", is written over a horizontal line.

John Wolfel,

Controller

JEA

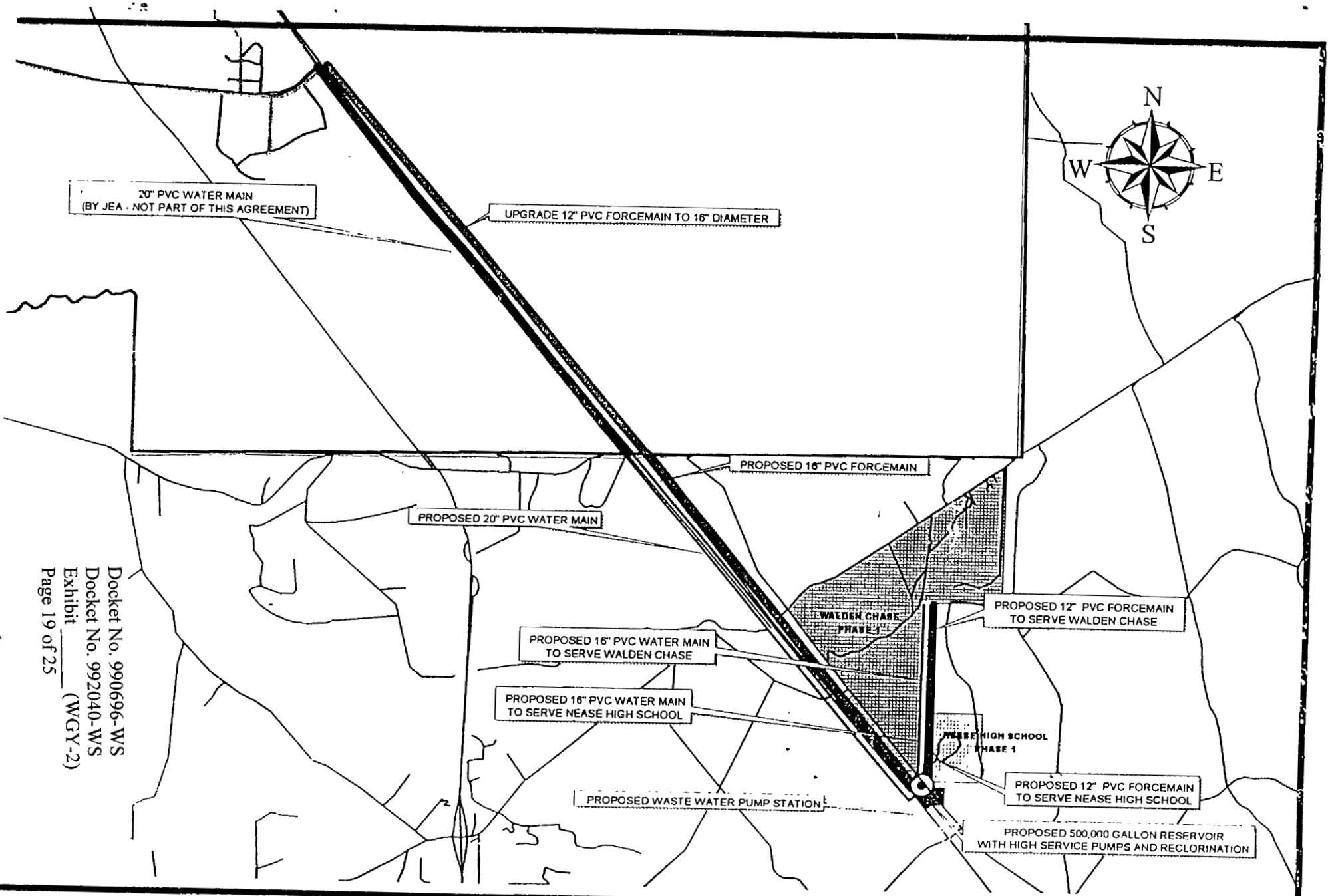
EXHIBITS

- A. Map of Phases

- B. Written Description of Phases

- C. Schedule

4/13/99 CAL K\PAULA\JIM\SCJWPB 413



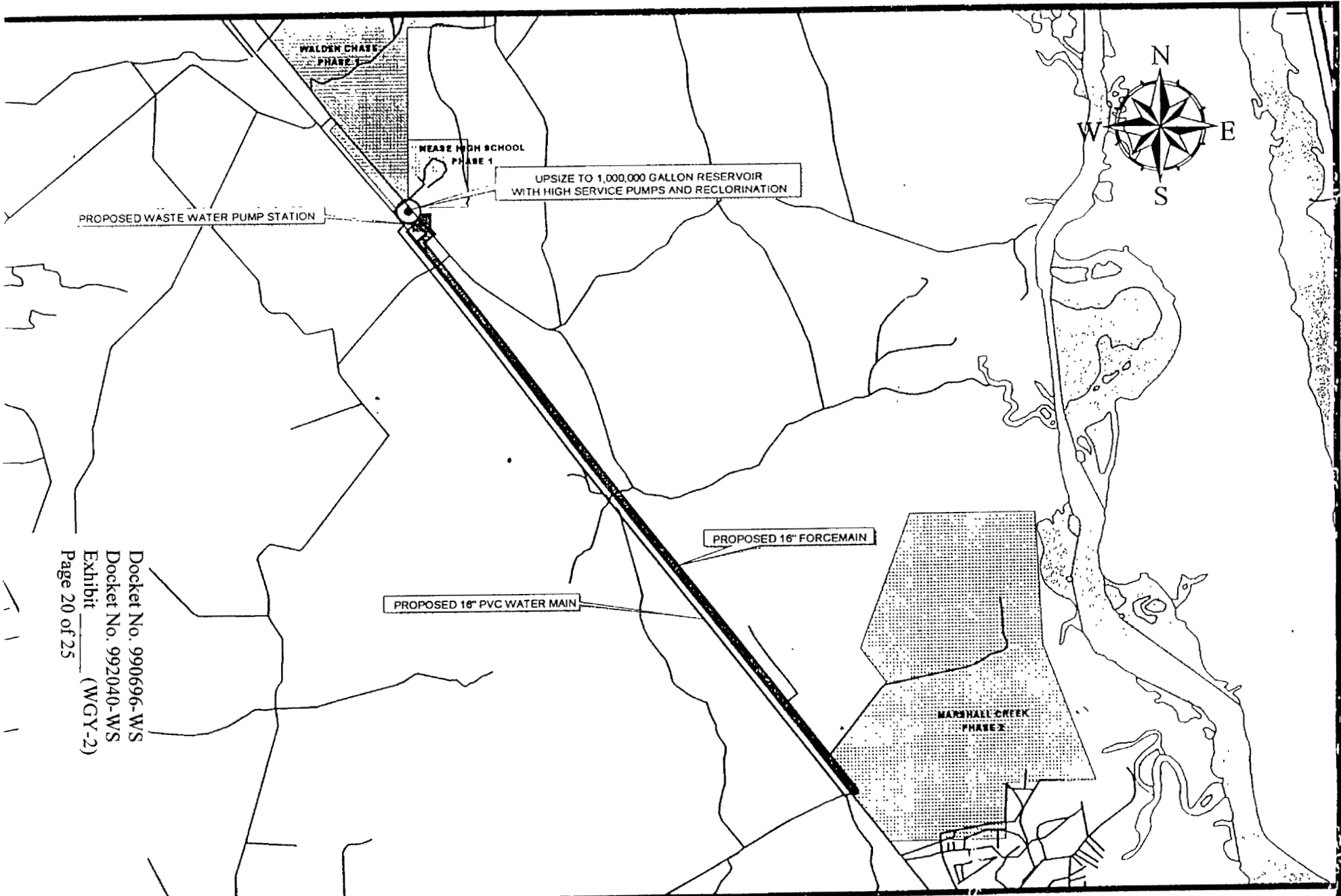
Docket No. 990696-W/S
 Docket No. 992040-W/S
 Exhibit _____ (MGY-2)
 Page 19 of 25

WATER AND WASTEWATER UTILITY SERVICE AGREEMENT

EXHIBIT "A" OPTION 1



JEA DELIVERY BUSINESS UNIT
 GIS SECTION
 APRIL 5, 1999
\\NWATER\DATA\W172_CITY_PROJ\W172

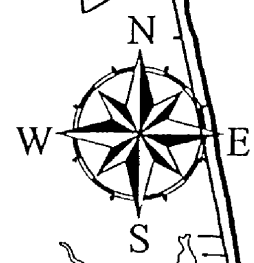
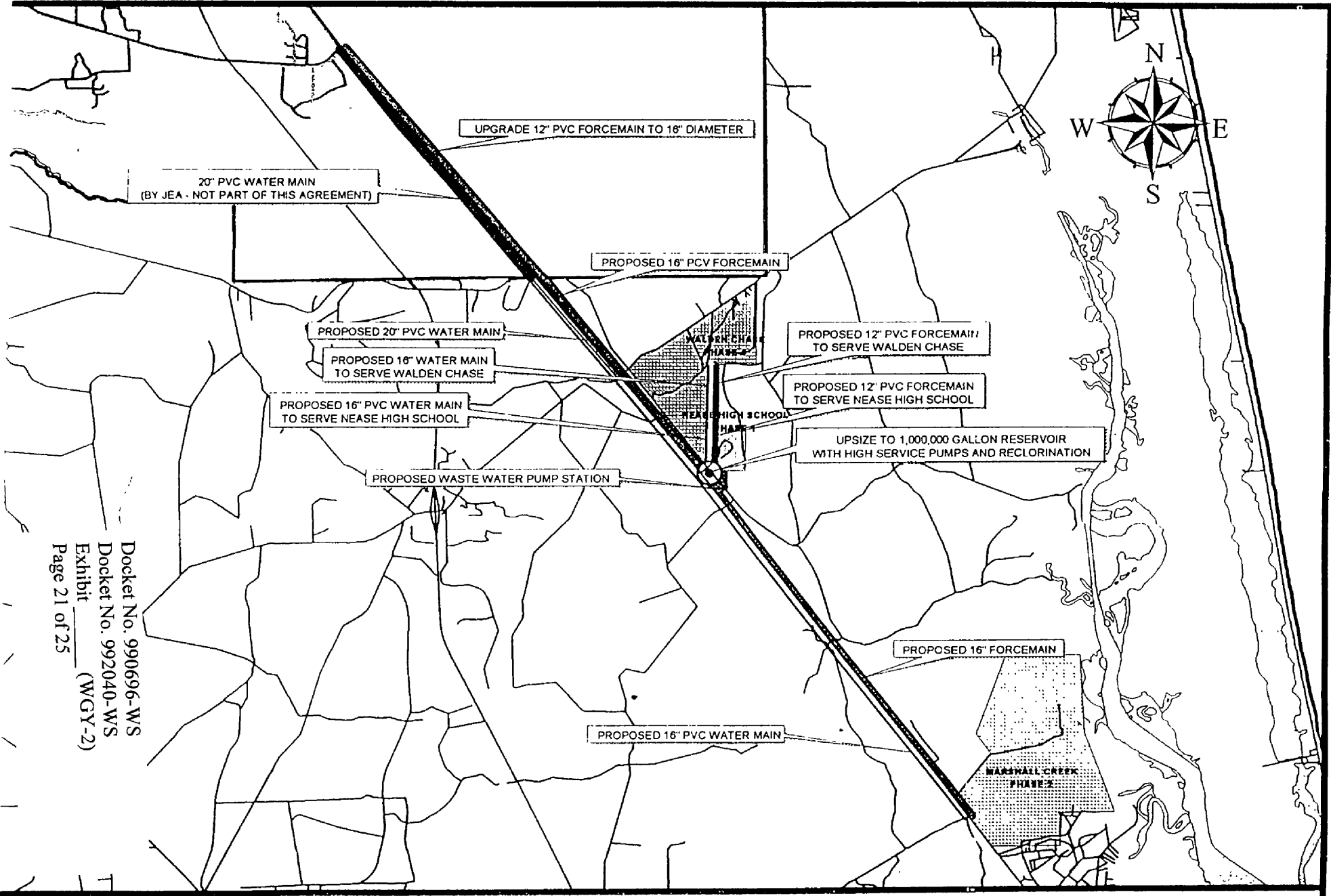


Docket No. 990696-WS
 Docket No. 992040-WS
 Exhibit (WGY-2)
 Page 20 of 25

WATER AND WASTEWATER UTILITY SERVICE AGREEMENT
EXHIBIT "A" OPTION 2



JEA DELIVERY BUSINESS UNIT
 GIS SECTION
 APRIL 5, 1999
REVISIONS DATE/REV. CITY PROJ. WEASE



Docket No. 990696-WS
 Docket No. 992040-WS
 Exhibit _____ (WGY-2)
 Page 21 of 25

WATER AND WASTEWATER UTILITY SERVICE AGREEMENT

EXHIBIT "A" OPTION 3



JEA DELIVERY BUSINESS UNIT
 OIR SECTION
 APRIL 5, 1999
A WATER AND WASTEWATER UTILITY SERVICE AGREEMENT

WATER AND WASTEWATER UTILITY SERVICES AGREEMENT

BETWEEN JEA AND ST. JOHNS COUNTY

EXHIBIT "B"

Option 1:

The extension of the water and wastewater facilities from the Duval County/St. Johns County line, southerly along the US # 1 rights-of-way, to a point south of the intersection of US # 1 and County Road 210, then northerly through an easement to the Phase I area. The improvements will include approximately 3.5 miles of both 16-inch diameter PVC force main and 20-inch diameter PVC water main in U.S. # 1 right of way and approximately one third mile of both 12-inch diameter PVC force main and 16-inch diameter PVC water main in the easement serving Nease High School portion of Phase I area properties. Additional extensions of approximately two thirds of a mile with a 12-inch diameter PVC force main and a 16-inch PVC water main in the easement serving Walden Chase portion of Phase I area properties will also be included.

The project shall include an upsizing of approximately three miles of 12-inch force main to 16-inch diameter force main along US # 1 between the intersection of Old St. Augustine Road and the Duval County/St. Johns County line.

A 500,000 gallon water reservoir with high-service pumps, a standby generator, and a re-chlorination facility and a master wastewater pump facility adequate to handle sewage from the Phase I area shall also be included in the scope of the project.

Option 2:

Increase capacity of the reservoir to 1,000,000 gallons and increase capacity of high-service pumps, standby generator and re-chlorination facility to match larger reservoir. Upsize wastewater pumping station to serve both Phase I and Phase II area properties

Install 4.5 miles of 16-inch diameter water main and 16-inch diameter wastewater force main from the southerly extension of Option 1 at U S # 1, southerly to a point approximately at the intersection of US # 1 and International Golf Parkway

WATER AND WASTEWATER UTILITY SERVICES AGREEMENT

BETWEEN JEA AND ST. JOHNS COUNTY

EXHIBIT "B" [continued]

Option 3:

The extension of the water and wastewater facilities from the Duval County/St. Johns County line, southerly along the US # 1 rights-of-ways, to a point approximately at the intersection of International Golf Parkway and US # 1. The improvements will include approximately 8 miles of 16-inch diameter PVC force main, 3.5 miles of 20-inch diameter PVC water main and 4.5 miles of 16-inch diameter PVC water main in U.S # 1 right-of-way. Project will include approximately one third mile of both 12-inch diameter PVC force main and 16-inch diameter PVC water main in the easement serving Nease High School portion of Phase I area properties. Additional extensions of approximately two thirds of a mile with both 12-inch diameter PVC force main and 16-inch PVC water main in the easement serving Walden Chase portion of Phase I area properties will also be included.

The project will also include upsizing approximately three miles of 12-inch force main to 16-inch diameter force main along US # 1 between the intersection of Old St. Augustine Road and the Duval County/St. Johns County line.

A 1,000,000-gallon water reservoir with high-service pumps, a standby generator and a re-chlorination facility to match reservoir will be installed near the southerly extension of Phase I project. A master wastewater pump facility adequate to handle sewage from the Phase I and the Phase II areas will also be included in the scope of the project.

Exhibit C - Water and Wastewater Utility Services Agreement

ID	Task Name	Duration	Start	Finish	Apr '99	May '99	Jun '99	Jul '99	Aug '99	Sep '99	Oct '99	Nov '99	Dec '99
					Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	Option I - Design/Permitting Bayard to CR210	58 days	Thu 4/1/99	Mon 6/21/99									
2	Option I - Construction	70 days	Mon 6/28/99	Fri 10/1/99									
3	Option II - Design/Permitting CR 210 to Intl Golf P'way	71 days	Mon 4/5/99	Mon 7/12/99									
4	Option II - Construction	124 days	Tue 7/13/99	Fri 12/31/99									
5	Option III - Design/Permit	70 days	Thu 4/1/99	Wed 7/7/99									
6	Option III - Construction	145 days	Mon 6/14/99	Fri 12/31/99									

Docket No. 990696-WS
 Docket No. 992040-WS
 Exhibit (WGY-2)
 Page 24 of 25

represents substantial completion

Task		Rolled Up Task		External Tasks	
Progress		Rolled Up Milestone		Project Summary	
Milestone		Rolled Up Progress			
Summary		Split			

Project Schedule

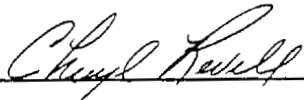
CERTIFICATION

I, CHERYL REVELL, Staff Support Assistant to the JEA Board, do hereby certify that the attached is a true and exact copy of the action taken by the Jacksonville Electric Authority at a regular meeting assembled on Tuesday, April 20, 1999, pertaining to:

COOPERATIVE AGREEMENT WITH ST. JOHNS COUNTY UTILITIES

WITNESS my hand and Official Seal of the JEA this 20th day of April, 1999.

(SEAL)



Cheryl Revell

Staff Support Assistant

ST. JOHNS COUNTY/ JEA WATER AND WASTEWATER INTERLOCAL AGREEMENT

This Water and Wastewater Interlocal Agreement ("Agreement") is made and entered into this 20th day of July, 1999, by and between St. Johns County, a political subdivision of the State of Florida (hereafter the "County") and JEA, an electric, water and wastewater (which includes reuse) utilities authority established under the laws of the State of Florida.

RECITALS

1. County is authorized to provide water and wastewater (which includes reuse) services and to regulate such services within St. Johns County pursuant to authority granted by the State of Florida.
2. JEA is authorized to provide electric, water and wastewater services within and without the City of Jacksonville, Florida pursuant to authority granted by the State of Florida.
3. JCP Utility Company ("JCP") currently owns and operates a water and wastewater (which includes reuse) utility system located wholly within St. Johns County pursuant to Water Franchise Certificate No. 17 and Sewer Franchise Certificate No. 18 (the "Utility System") issued by the County. JCP is authorized to provide water and wastewater services from the Utility System within the service area set forth in Exhibit "A" hereto which is incorporated herein by reference (hereinafter the "Service Territory").
4. JEA is prepared to enter into a purchase and sale agreement, (as shown in Exhibit "B") with JCP for the acquisition of the entire Utility System and thereafter own and operate the Utility System within the Service Territory.
5. As a precondition for the transfer of certificates to the Utility System from JCP to JEA, and in order to assure that water and wastewater services within St. Johns County are provided in an orderly fashion and to promote cooperation and coordination between the County and JEA in providing those services within the Service Territory, the County has required and JEA has agreed to enter into this Interlocal Agreement to allow JEA to provide and extend water and wastewater (including reuse) services within the Service

Territory. The County has agreed that JEA may provide water and wastewater services within the Service Territory as more specifically set forth in this Agreement. JEA and the County both acknowledge the desirability and the need to provide water and wastewater services within the Service Territory in a manner which is both economical and consistent with the water conservation and management policies of the State of Florida and St. Johns County.

6. The duplication of water and wastewater facilities by the County and JEA would result in needless and wasteful expenditures on the part of both entities. By entering into this Agreement, it is the intent of JEA and the County to avoid and eliminate circumstances which may give rise to such uneconomical and expensive duplication of wastewater and water service facilities.

7. In construing this Agreement, it is hereby declared by the County and JEA (hereinafter sometimes referred to as the "parties") to be the purpose and intent of this Agreement to prevent the needless and wasteful expenditures and the harm to water conservation and management efforts of each which might result from unrestrained competition. In all decisions made and action taken pursuant to this Agreement, the parties shall adopt the least restrictive means available for consumers to obtain safe, efficient, economical, and sufficient water and wastewater services. Nothing contained herein is intended to prohibit persons, corporations or governments other than the parties hereto from lawfully providing water and wastewater services within St. Johns County, Florida, subject to applicable state law and County ordinances. The parties do not intend, and are not by entering into this Agreement, (1) placing undue or unreasonable restrictions upon free competition, or (2) unreasonably limiting the availability of water and wastewater service capacity.

8. JEA agrees that it will not seek to provide or extend water and wastewater services in St. Johns County without the County's prior written approval except as provided by Sections 2.3 and 2.4.

ACCORDINGLY, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

SECTION 1. RECITALS. The above recitals are true and correct, and form a material part of this Agreement.

SECTION 2. COUNTY'S CONSENT TO JEA SERVICES.

2.1 JEA Service Territory. The County agrees that JEA may provide retail and wholesale water and wastewater services within the Service Territory during the term of this Agreement. JEA shall not hereafter serve or offer to serve any other customer located on lands within St. Johns County, Florida, which lie outside of the Service Territory unless the County and JEA agree in writing for JEA to do so. Nothing contained in this Agreement shall be construed to prevent JEA from providing wastewater or water service within the City of Jacksonville or other counties in the State of Florida, nor shall anything contained herein be construed to prevent the County from providing or authorizing others to provide such services outside of the Service Territory in St. Johns County, Florida.

2.2 Limitations on JEA Service Territory. The County and JEA agree that the rights of JEA to provide water and wastewater services in St. Johns County are limited by this Agreement to the Service Territory. If JEA wishes to extend service in St. Johns County outside of the Service Territory, any such extension must be accomplished with the specific authorization of the County and as more specifically set forth in Section 3 below.

2.3 JEA Bulk (Wholesale) Service. Notwithstanding anything to the contrary stated in Sections 2.1 and 2.2, or elsewhere in this Agreement, JEA reserves the right to provide bulk and/or contract operations service to any utility not regulated by the County. The County reserves the right to object to the certification proceeding for any private utility before the Florida Public Service Commission, and to object to the extension of service territory by any governmental or private utility or the establishment of service area by any not-for-profit entity.

2.4 JEA/DDI Agreement. The parties recognize that there are issues which have not been resolved with regard to the JEA/DDI Agreement. A copy of said agreement is attached as Exhibit "C". Nothing contained in this Agreement shall be construed as an agreement by JEA to limit its ability to exercise the right of first refusal under the JEA/DDI Agreement. Furthermore, nothing contained in this Agreement shall be construed to prohibit or restrict the County from withholding its consent or objecting to the provision of retail service by JEA or DDI to the area proposed to be served by DDI or its successors.

SECTION 3. EXTENSION OF SERVICE AREA. JEA may only extend the Service Territory by application to the St. Johns County Water and Sewer Authority (the "Authority") or the Board of County Commissioners of St. Johns County (the "Board") as set forth below:

3.1 Extension Wholly Within St. Johns County. Except as provided by Section 2.3, if JEA wishes to extend the Service Territory to include additional areas wholly within the boundaries of St. Johns County, application shall be made to the Authority or the Board, whichever is appropriate in accordance with the County's ordinances and rules, as amended from time to time. The decision by the Board to permit or deny such extension shall be based upon the public interest as determined in the discretion of the Board.

3.2 Extension Not Wholly Within St. Johns County. If JEA wishes to extend the Service Territory to include additional areas which lie in both the political boundaries of St. Johns County and any other county, application shall be made directly to the Board, except as provided by Sections 2.3 and 2.4. The decision by the Board to permit or deny

such extension in St. Johns County shall be based upon the public interest as determined in the discretion of the Board.

SECTION 4. UTILITY SYSTEM RATES: OPERATING STANDARDS; REPORTS.

As a condition to agreement by the County to enter into this Agreement, JEA agrees that the following shall apply to its ownership and ongoing operation of the Utility System:

4.1 No Discrimination in Rates and Level of Service. JEA agrees that the rates and fees charged for water and wastewater services from the Utility System shall be the same in the Service Territory as charged for water and wastewater services within the City of Jacksonville. No JEA imposed surcharge, tax or rate differential shall apply to JEA customers in the Service Territory within St. Johns County without the consent of the County. The quality and level of service provided by the Utility System shall be equal for customers in the Service Territory within St. Johns County as that offered by JEA to customers in the City of Jacksonville. In addition, JEA shall not discriminate between the quality and level of service offered to customers in the Service Territory within St. Johns County and those in any other county. JEA agrees to provide services to the existing customers of JCP and to future customers in the Service Territory according to JEA's uniform service availability policies. If JEA during the term of this Agreement, shall propose any new rate schedule or amended rate schedule applicable to water or wastewater service furnished by JEA, JEA shall forward to the County a copy of such rate schedule or amended rate schedule prior to the effective date thereof. Any increase or decrease in rates shall be consistent with state law and the terms and conditions of this Agreement. Furthermore, JEA agrees to provide the County written notice in accordance

with Section 10 of this Agreement as soon as a proposed increase in rates is recommended to its governing board.

The provisions of this Section 4.1 are subject to Section 2.3 which allows bulk (wholesale) service to be provided by JEA under the circumstances stated therein.

4.2 Standards. JEA agrees to operate, maintain and construct the Utility System in accordance with standards equal to or greater than those established by the County for its utility system.

4.3 Franchise Fees and Taxes. JEA has the right to collect on its behalf its uniform rates, fees and charges from its customers. JEA further agrees to collect from its wholesale and retail water and wastewater customers within the Service Territory (as such may be amended from time to time under the terms of this Agreement) all applicable fees and utility taxes pertaining to water and/or wastewater services that may be levied by the County now or at any time hereafter. Such fees and taxes shall be collected by JEA and paid over to the County as required by such applicable County ordinances or resolutions now existing or hereafter adopted. JEA shall not charge any fee for collecting franchise fees and taxes for the County, unless the County allows similar collection agents to receive a fee for similar service.

4.4 Asset Reporting. JEA shall segregate all asset information, except for meters, meter boxes, taps and other non-segregatable items which shall be allocated on a per ERC basis, for the Utility System and any future extensions thereof permitted under this Agreement which lie within St. Johns County. Such information shall be provided to the County on an annual basis and shall include, without limitation, the value of all such

assets, any contributions in aid of construction applicable thereto, and other capital asset information reasonably requested by the County to allow verification of compliance with the terms of this Agreement. Transmission and treatment facilities owned by JEA outside of the Service Territory which provides service to the Service Territory and other areas, or only to other areas, are not subject to the asset reporting requirements of this Section 4.4. JEA shall annually provide its annual financial statements, budget, current 5-year capital improvement plan and renewal and replacement program to the County.

4.5 Balancing of Water Supply and Reuse. JEA shall operate the Utility System, to the extent reasonably possible, in the manner which is intended to help minimize potable water use and maximize water reclamation and reuse. JEA will cooperate with the County in implementing programs to achieve this goal.

4.6 Abandonment of Portions the Utility System. JEA shall not abandon any portions of the Utility System, including any water treatment plant, storage tank, pumping stations, or wastewater treatment plant of the Utility System which would have an adverse impact on the water and wastewater customers within the Service Territory.

4.7 Customer Service. JEA shall coordinate with the County with respect to customer services offered within the Service Territory. JEA shall provide a toll free telephone number for use by JEA customers within the Service Territory.

4.8 Approval of Developer Agreements. Any proposed developer agreements for the provision of water or wastewater services within the Service Territory shall be presented by JEA to the County for review and comment. If the County has any objections based on conflict with this Agreement or County ordinances, the County shall promptly

notify JEA, and the parties will resolve the objections. Upon approval of the final developer agreement by the County, which may be given administratively, and shall not be unreasonably withheld, JEA may enter into such developer agreement. The agreement shown in Exhibit "B" is approved concurrently with the approval of this Agreement.

4.9 Coordination. JEA agrees that it shall provide water and wastewater services only to those areas within the Service Territory approved for construction by the appropriate County planning and development agencies. JEA further agrees that it shall comply with all rules and regulations enacted by the County governing water and wastewater services requests. JEA will coordinate its activities within the right-of-way.

SECTION 5. PURCHASE OF THE UTILITY SYSTEM BY COUNTY. The County shall have the right to purchase the Utility System from JEA under the conditions set forth below.

5.1 Exclusive Right to Purchase. The County shall have exclusive right to purchase the Utility System under any of the circumstances listed below (the "Exclusive Purchase Events"). Upon the occurrence of any Exclusive Purchase Event, JEA shall promptly provide the County with written notice of the Exclusive Purchase Event and the details thereof. Within 90 days of receipt of such notice, the County shall provide a written response which either (i) exercises the right of the County to enter into negotiations for the purchase of the Utility System, or (ii) rejects the right and discharges JEA from any further obligation to offer the Utility System to the County for purchase. If no response is received within 90 days, then the County will be deemed to have rejected the right to purchase.

Exclusive Purchase Events are any of the following:

5.1.1 Any change in the majority ownership interest of JEA.

5.1.2 The expiration of the initial and each successive term of this Agreement; provided, however, that if the parties mutually agree to extend the term of the Agreement for a successive 5-year period, the first right of refusal to purchase the system based on the expiration of the Agreement shall be deemed to have been waived by the County until the end of that term.

5.1.3 A transfer or assignment of this Agreement by JEA without the prior written agreement of the County.

5.2 County First Right of Refusal. JEA has the right to sell or lease all of the Utility System. JEA has the right to sell or lease any part of the Utility System, provided that JEA will not divide or partition for sale or lease the original Service Territory acquired from JCP. Prior to any such sale or lease, the County is hereby granted by JEA the first right of refusal at the purchase price specified in Section 5.6 for acquisition of the Utility System if JEA decides at any time to sell or lease the Utility System. Any lease shall require the lessee to abide by the terms of this Agreement. A decision by and response to JEA by the County to either enter into purchase discussions or not shall be made within 90 days from receipt of written notice from JEA of its intent to sell or lease the Utility System. Failure by the County to make a response within said 90-day period shall be deemed a decision not to enter into negotiations. If at anytime in the future JEA decides to utilize any creative financing or tax management strategies, the County agrees to cooperate with JEA by not exercising this Right of First Refusal provided that such financing or strategy does not conflict with the substantive purpose of this Section 5.2.

5.3 Abandonment of the Entire Utility System. In the event that JEA abandons the entire operation of the Utility System without the written agreement of the County, County shall be entitled to take ownership of the Utility System at no cost.

5.4 Disposition of Funds Upon Purchase by the County. In the event that the County purchases the Utility System pursuant to the terms of this Section 5, unused prepaid impact fees, if any, collected from the customers located within the Service Territory shall be transferred to the County.

5.5 Reservation of Capacity. In the event that the County purchases or otherwise takes over ownership and operation of the Utility System pursuant to the terms of this Section 5, the County and its successors in interest to the Utility System shall be entitled to capacity from JEA equal to the capacity used by JEA to serve the customers of the Utility System at the time of transfer. Such capacity (including treatment and transmission) shall be provided by JEA at no charge. Any additional capacity shall be purchased by the County or its successors at the prevailing JEA rates if such additional capacity is deemed available by JEA. JEA agrees to charge the County no more than its uniform rates for its existing useage of capacity or additional useage of capacity.

5.6 Purchase Price. In the event the County is entitled to purchase the Utility System in accordance with any provision of this Section 5 (except Section 5.3), JEA agrees to sell the Utility System, within St. Johns County acquired by JEA from JCP and all contiguous Service Territory extensions thereof, including all additions, replacements and modifications thereto, to the County based upon the following formula applied at the time of the sale:

The Purchase Price shall be equal to One Hundred Ten (110) percent of the Net Investment by JEA.

Where:

(a) "Investment" means that capital amount paid by JEA to purchase or improve or expand water and wastewater assets within the Service Territory in St. Johns County, excluding contributions by developers in cash, services or facilities (contributions-in-aid-of-construction CIAC) made after the date of purchase of the Utility System by JEA.

(b) "Depreciation" shall be calculated at a rate of two and one-half percent (2.5%) per year of the Investment for the term of the Agreement, as adjusted by the salvage or resale of decommissioned assets or land at the amount received by JEA.

(c) "Rate Retirement of Investment" means the amount of recovery of Investment by JEA from its customers, if any, achieved by any future adjustment in rates based in part on the recovery of depreciation expense.

(d) "Net Investment" equals Investment by JEA less the sum of Depreciation and Rate Retirement of Investment.

(e) Any extensions of the Service Territory which are not contiguous to the original Service Territory acquired by JEA from JCP are not included in the preceding purchase price formula and are not subject to the other provisions of this Section 5. It is contemplated that the parties may in the future agree upon purchase terms for noncontiguous extensions.

5.7 County Resale Condition. The County agrees that if the County enters into a contract to resell the assets purchased from JEA under this Agreement within five (5)

years of purchasing such assets from JEA and such resale produces net proceeds then the County shall pay to JEA within 30 days of receipt of the net proceeds, a sum equal to fifty percent (50%) of such resale net proceeds. Any County capital asset investment, including but not limited to, the purchase price paid by the County to JEA, shall be deducted from the resale amount to derive the net proceeds.

SECTION 6. BOND COVENANTS. The parties agree that neither will take any action under this Agreement which is contrary to any bond covenants governing the actions of each. In addition, each party agrees to disclose this Agreement in any future bond issue if material to such issues.

SECTION 7. TERM OF AGREEMENT. The term of this Agreement shall be from the day when the last of the parties receives the approval of its respective governing board and executes the Agreement and shall continue in effect for a period of thirty (30) years, and thereafter shall be subject to renewal for up to two (2) successive five-year periods by mutual agreement of the parties. If either party wishes not to renew this Agreement such party shall provide at least twelve (12) months written notice to the other party prior to the expiration of the initial or subsequent terms as applicable.

SECTION 8. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the parties hereto and no right or cause of action shall accrue upon or by reason of, to or for the benefit of any third party not a party hereto.

SECTION 9. ASSIGNMENTS. Neither party shall have the right to assign or transfer this Agreement, in whole or in part, without the prior written agreement of the other party.

SECTION 10. NOTICE: PROPER FORM. Any notices or demands hereunder to the parties shall be given by certified mail, return receipt requested, at the respective addresses shown below, or such other addresses the parties shall specified by written notice to the other delivered in accordance herewith, postage prepaid:

The County: County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32085

JEA: Strategic Assessment Officer
21 West Church Street
Jacksonville, FL 32202-3139

SECTION 11. AUTHORITY SUCCESSOR. If the Authority ceases to exist for any reason or its duties are limited by the Board, this Agreement shall continue in effect, and any duties to be performed by the Authority shall be performed by the Board.

SECTION 12. APPLICABLE LAW. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

SECTION 13. SEVERABILITY. In case any covenant, condition, term or provision contained in this Agreement shall be held to be invalid, illegal or unenforceable in any respect, in whole or in part, by judgment, order or decree of any court or other judicial tribunal of competent jurisdiction, the validity of the remaining covenants, conditions, terms and provisions contained in this Agreement, and the validity of the remaining part of any term or provision held to be partially invalid, illegal or unenforceable, shall in no way be affected, prejudiced, or disturbed thereby.

SECTION 14. MODIFICATIONS IN WRITING. No waiver or modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

SECTION 15. NO WAIVER. Any failure of either party to comply with any obligation, covenant, agreement or condition herein may be expressly waived in writing by the other, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. The recitals and exhibits to this Agreement shall be considered a part of this Agreement, and are incorporated herein by this reference.

SECTION 16. CONDITION PRECEDENT. This Agreement shall be null and void if JEA does not purchase the Utility System by July 31, 2000.

SECTION 17. ODOR PROBLEM. The parties recognize that there have been several odor problems associated with JCP's operation of its wastewater treatment facility, located on S.R. 13. JEA intends to correct the odor problems and will expend the necessary funds to correct it as promptly as possible after purchase.

SECTION 18. EFFECTIVE DATE. The effective date of this Agreement shall be the later of the (a) date of execution by both parties to this Agreement or (b) the date of execution of any JEA/JCP purchase agreement.

SECTION 19. ENTIRE AGREEMENT. This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements. Amendments to and waivers of the provisions herein shall be made by the parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates and year set forth below.

St. Johns County Board of County Commissioners

By: Marc Jacobs
Chairman

OFFICIAL SEAL

Date of Execution by County:

July, 20, 1999

ATTEST:

Cheryl Strickland
Clerk

As authorized for execution by the Board of County Commissioners at their July 20, 1999, regular meeting.

JEA

By: Walter P. Bussells
Walter P. Bussells, Managing Director and Chief Executive Officer

Attest Karen Perkins
Staff Support Assistant

Date of Execution by JEA:

7/, 20, 1999

Form approved:

Carl A. Loggins
Office of General Counsel

EXHIBIT "A"
JEA INITIAL SERVICE TERRITORY
(MAP AND LEGAL)

TERRITORY SERVED

TOWNSHIP 4 SOUTH, RANGE 26 EAST

Section 25

All of Section 25 lying South and East of Julington Creek and the St. Johns River.

Section 36

All of Section 36.

Section 40

All of Section 40.

TOWNSHIP 4 SOUTH, RANGE 27 EAST

Section 26

All of Section 26.

Section 27

All of Section 27.

Section 28

All of Section 28.

Section 29

All of Section 29.

Section 30

All of Section 30.

Section 31

All of Section 31 less and except the Franchise Certificate Service Area of Fruit Cove Utilities, and more particularly described as follows:

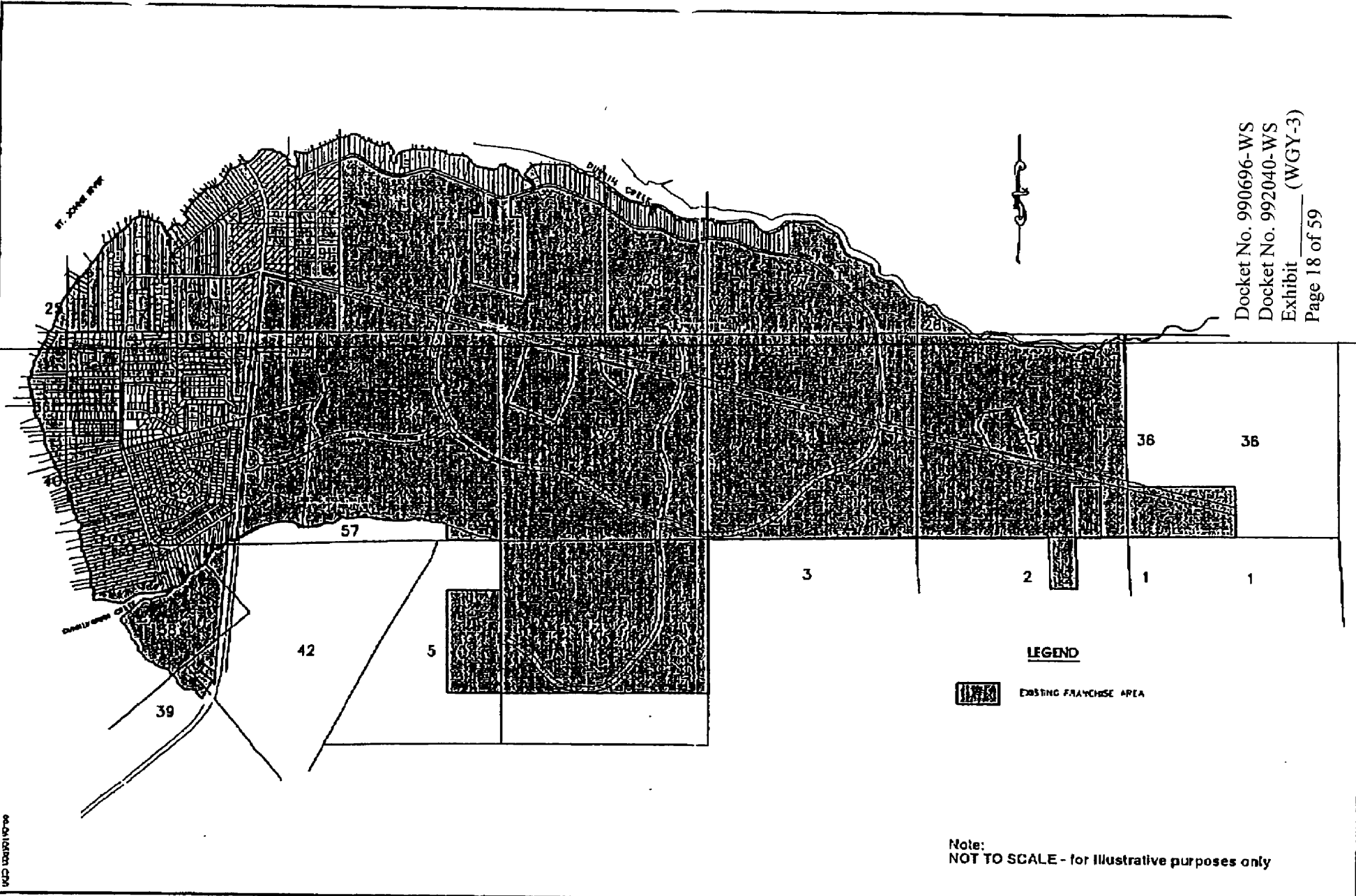
That portion of Section 31 lying East of State Road No. 13 bounded on the South by Julington Creek Unit One, Map Book 16, Pages 35 through 51, public records of St. Johns County; together with all of that part of Section 31 lying West of State Road No. 13 and South and East of Julington Creek and the St. Johns River, less and except any portion lying within boundaries of the following subdivisions:

Fruit Cove Forest
Fruit Cove Oaks

Map Book 13, Page 7
Map Book 12, Page 38

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Docket No. 992040-WS
Exhibit _____ (WGY-3)
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Exhibit A - Page 1



Docket No. 990696-WS
 Docket No. 992040-WS
 Exhibit (WGY-3)
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LEGEND

 EXISTING FRANCHISE AREA

Note:
 NOT TO SCALE - for illustrative purposes only



HARTMAN & ASSOCIATES, INC.
 civil, electrical, hydrogeological, surveyors & management consultants
 201 EAST PINE STREET - SUITE 1000 - ORLANDO, FL 32801
 TELEPHONE (407) 839-3455 - FAX (407) 839-3790

EXHIBIT A

EXHIBIT "B"
JEA-JCP AGREEMENT

REVISED DRAFT

July 7, 1999

WATER AND SEWER ASSET PURCHASE AGREEMENT

JCP UTILITY COMPANY

This Water and Sewer Asset Purchase Agreement (hereinafter referred to as this "Agreement"), made and entered into in duplicate, by and between JEA (formerly known as the Jacksonville Electric Authority), a body politic and corporate of the State of Florida (hereinafter called "JEA" or "Purchaser"), and JCP Utility Company, a Delaware corporation with principal offices in Houston, Texas and doing business in St. Johns County, Florida (hereinafter called "Seller").

WITNESSETH:

WHEREAS, Seller represents that it is the legal owner and holder of the assets hereinafter described (as more particularly defined herein, the "System"); and

WHEREAS, Purchaser desires to acquire the System from Seller, and

WHEREAS, Purchaser held a public hearing pursuant to Section 180.301, Florida Statutes, on the proposed purchase by it of all of the water and sewer utility assets owned by Seller in St. Johns County, Florida, and has made a determination that such a purchase is in the public interest; and

WHEREAS, Purchaser, in determining if such purchase is in the public interest, considered, at a minimum, all of the facts as referenced in Section 180.01 et seq., Florida Statutes.

NOW, THEREFORE, for and in consideration of the premises and the mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

Docket No. 990696-WS
Docket No. 992040-WS
Exhibit _____ (WGY-3)
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DEFINITIONS

The following terms shall have the meanings established hereinbelow, unless the context otherwise expressly requires:

A. "Purchase Price" shall mean the amount payable and to be paid by Purchaser to Seller at the time and in the manner as provided in Section 1 below, which amount shall be equal to the sum of (1) \$17,500,000, representing the purchase price for the assets and customers of Seller's System existing as of December 31, 1998 and (2) \$700,000, representing reimbursement to Seller for assets of Seller's System constructed subsequent to December 31, 1998 pursuant to that certain EJCDC Standard Form of Agreement, effective June 10, 1998, between Seller and Ortega Industrial Contractors.

B. "Seller's Service Area" shall mean the areas of St. Johns County described in Schedule A attached hereto, which are the areas wherein Seller holds certificates of public convenience and necessity to provide water and/or sewer services and the areas served by Seller which are not certificated. Said Schedule A shall be revised as of the date of the Closing to clearly delineate and designate all such areas which are certificated and non-certificated, and shall be delivered to Purchaser at the Closing.

C. "System" shall mean all the assets and facilities of the water and sewer systems owned, leased and/or used by Seller at the time of the Closing, consisting generally of goodwill, plants, lift stations, meters, lines, material and/or spare parts, equipment and performance warranties, personal and real property, including easements, with buildings and improvements thereon, all as more particularly described in Schedule B attached hereto and made a part hereof, and all being used and in service to the public. "System" also shall include (1) all facilities currently under construction in connection with the Service Agreements for which dedication of facilities has not yet occurred and (2) approximately [5,668] linear feet ("lf") of water transmission lines and

[11,070] If of sewer force mains that Seller leases from Julington Creek Plantation Community Development District pursuant to that certain Agreement Between the Julington Creek Plantation Community Development District and JCP Utility Company Regarding Licensing of Use of Utility Improvements, dated _____, 1998 (the "CDD Lease"). Said Schedule B shall be revised to provide an inventory and valuation of property and equipment to be sold to JEA in accordance with the National Association of Regulatory Utility Commissioners (N.A.R.U.C.) chart of accounts, and such revised Schedule B shall be delivered to Purchaser's Finance Department on or before July 12, 1999. In addition, said Schedule B shall be revised further as aforesaid as of the date of the Closing, and such revised Schedule B shall be delivered to Purchaser at the Closing. Schedule B, as so revised, shall be in sufficient detail and supported by legal and other descriptions necessary to enable the System to be recorded on the books and records of JEA. Except with respect to real property, sufficient detail shall be deemed to be achieved through reference to "as built" and system drawings (to the extent the same are in the possession of Seller or Seller's agent(s)), cumulative listings of plant items and the general ledger maintained by Seller in accordance with all applicable regulatory requirements. Notwithstanding anything to the contrary, "System" shall not include cash, motor vehicles, tools, portable equipment, office furniture and equipment, computer equipment and software, customer deposits held by Seller, accounts receivable and other current assets (other than material and/or spare parts), choses in action, any other intangibles (except goodwill), or liabilities, nor shall it include any assets or properties of Seller not used in connection with the provision of water and sewer service in Seller's Service Area.

D. "Service Agreements" shall mean those agreements listed in Schedule D hereto, pursuant to which Seller has agreed to provide utility service from the System to persons and/or locations not currently served by the System.

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E. "Environmental Laws" shall mean all Federal, State and local environmental statutes, laws, ordinances, rules and regulations, including but not limited to (a) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq., (b) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq., (c) the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, as amended, 33 U.S.C. § 1251 et seq., (d) the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq., (e) the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., (f) the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. § 7401 et seq., (g) the National Environmental Policy Act of 1970, as amended, 42 U.S.C. § 4321 et seq., (h) the Rivers and Harbors Act of 1899, as amended, 33 U.S.C. § 401 et seq., (i) the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 et seq., (j) the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. § 651 et seq., (k) the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300(f) et seq., (l) the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., (m) the rules and regulations of the United States Environmental Protection Agency and (n) any similar laws, ordinances, rules or regulations enacted by the State of Florida, the County of St. Johns, Florida, the St. Johns Environmental Protection Board or any other governmental agency or authority having jurisdiction.

1. **PURCHASE AND SALE OF SYSTEM.** At the Closing referred to in Section 2 below, Seller will sell, transfer, assign, and deliver the System to Purchaser free and clear of liens, pledges and encumbrances of any kind, nature or description except as otherwise expressly permitted hereby, and Purchaser will purchase the System for an amount equal to the Purchase Price. In addition, at the Closing, Purchaser shall pay to Seller an additional amount equal to the

sum of all amounts paid by Seller (and properly documented) prior to the date of the Closing pursuant to the OIC Agreement and the ET&M Agreement referred to in Section 4A(1). Said Purchase Price, less the amount, if any, of ad valorem taxes or assessments for the 1999 tax year attributable to the period through and including the date of the Closing, determined as provided in Section 6D; and said additional amount shall be payable, at the option of Seller, by check of Purchaser delivered at the Closing or by wire transfer of immediately available funds sent by 2:00 p.m., Jacksonville time, on the business day following the date of the Closing to such account as Seller shall specify.

2. **CLOSING.** The closing of the transaction provided for in Section 1 above (hereinafter the "Closing") will take place at the offices of Purchaser, 21 West Church St., Jacksonville, Florida, on July 21, 1999 (hereinafter referred to as the "Agreed Closing Date"), subject to the satisfaction of all conditions precedent specified in this Agreement; provided, however, that in the event that (a) Seller shall not have delivered to Purchaser, on or before July 8, 1999, all plats and any required "as built's", (b) Seller shall not have delivered to Purchaser, on or before July 12, 1999, proposed forms of all documents to be delivered by Seller to Purchaser pursuant to this Agreement in connection with the Closing and all schedules and exhibits to be attached to this Agreement or (c) Seller, by such date, shall not have cured any objections to title raised by Purchaser in accordance with Section 4C, then, in any such event, the Agreed Closing Date shall be extended by one day for each day that the delivery of any such item is delayed or objection is not cured, as the case may be; and provided, further, that in the event that Purchaser, on or before the Agreed Closing Date, shall have tendered to Seller complete performance of all of Purchaser's obligations under this Agreement in connection with the Closing (other than the payment of the Purchase Price), but Seller shall not have tendered to Purchaser complete performance of all of Seller's obligations under this Agreement in connection with the Closing, then

the Agreed Closing Date shall be extended until the day (if any) on which Seller shall tender to Purchaser complete performance of all of Seller's obligations under this Agreement in connection with the Closing, but in no event shall the Agreed Closing Date be extended beyond September 21, 1999. If the parties fail to close this transaction within the time provided, subject to the provisions of the following paragraph, either party may, at its option, terminate this Agreement in accordance with the provisions of Section 25.

In the event that Seller shall have tendered to Purchaser complete performance of all of Seller's obligations under this Agreement in connection with the Closing on or before the Agreed Closing Date (as the same may be extended pursuant to the provisions of the first proviso to the first sentence of the preceding paragraph), but Purchaser shall not have tendered to Seller complete performance of all of Purchaser's obligations under this Agreement in connection with the Closing (other than the payment of the Purchase Price) on or before such Date (as the same may be so extended), Purchaser will have the right at its sole option (a) to terminate this Agreement in accordance with the provisions of Section 25 or (b) to extend the closing date for up to ninety days for a \$1,000,000 non-refundable extension fee paid to Seller. The non-refundable extension fee will be applied to the Purchase Price.

In the event that Purchaser exercises the option described in the preceding paragraph, the Purchase Price shall escalate beginning on the day following the Agreed Closing Date (as the same may be extended pursuant to the provisions of the first proviso to the first sentence of the second preceding paragraph) at the rate of 8% per annum through the actual date of the Closing (decreased by any operating cash flow received by Seller from the operation of the System during such period), calculated based upon the number of days elapsed between the Agreed Closing Date (as the same may be so extended) and the actual date of the Closing, without compounding; it being understood and agreed that, so long as Purchaser shall have tendered to Seller complete performance of all of

Purchaser's obligations under this Agreement in connection with the Closing (other than the payment of the Purchase Price) on or before the Agreed Closing Date (as the same may be extended pursuant to the provisions of the first proviso to the first sentence of the second preceding paragraph), there shall be no such increase in the purchase price as a result of any delay in the completion of the Closing resulting from any delay by Seller in tendering to Purchaser complete performance of all of Seller's obligations under this Agreement in connection with the Closing.

3. **ACCESS TO INFORMATION.** Prior to the date of the Closing, Seller will make available for inspection to the officials of Purchaser and any attorneys, accountants, engineers or other authorized representatives of Purchaser, free and full access during normal business hours to all of Seller's properties, books, contracts, commitments, files, "as built" and records relating to the System. At the Closing, Seller will deliver to Purchaser copies of all relevant books, contracts, commitments, files and records that are not confidential, and Seller hereby represents that any such books, contracts, commitments, files and records that will not be delivered to Purchaser at the Closing because they are confidential are not material to Purchaser in connection with its purchase of the System. Copies of "as built" (to the extent the same are in the possession of Seller or Seller's agent(s)) shall be made available to Purchaser for copying. Prior to the date of the Closing, Seller shall provide to Purchaser the most recent information available about Seller's income and expenses, balance sheet, rate base for regulatory purposes and contributions-in-aid-of-construction, in each such case, attributable to the System.

4. **CONDITION OF THE SYSTEM; CONVEYANCES AND ASSIGNMENTS
AT CLOSING.**

A. Status of System.

(1) **Property.** Seller represents and warrants that at the time of the Closing Seller will own all of the assets described on Schedule B attached hereto and made a part of this

Agreement, as the same shall be revised in accordance with the fourth sentence of the definition of the term "System" herein, being all real property, interests in real property and tangible personal properties utilized in the operation of and constituting a part of the System except for cash, motor vehicles, tools, portable equipment, office furniture and equipment, computer equipment and software, customer deposits held by Seller, accounts receivable and other current assets (other than materials and/or spare parts), choses in action, any other intangibles (except goodwill), or liabilities. Seller warrants that, at the time of the Closing, said assets will be free of all liens and encumbrances and there shall not exist any obligations, liabilities or commitments, whether under contract, lease or otherwise, encumbering said assets or for which Purchaser might be liable or committed, other than (a) Seller's commitments to provide service to the customers listed in Schedule C attached hereto, (b) the Service Agreements listed in Schedule D attached hereto, (c) the EJCDC Standard Form of Agreement, effective January 27, 1999, between Seller and Ortega Industrial Contractors (the "OIC Agreement"), which Seller and Purchaser hereby agree shall be assigned to Purchaser at the Closing and (d) the agreement (ET&M No. 98-248), dated November 24, 1998, between Seller and England, Thims & Miller, Inc. relating to the expansion of Seller's Julington Creek Plantation water treatment plant (the "ET&M Agreement"), which Seller and Purchaser hereby agree shall be assigned to Purchaser at the Closing; provided that in the event that there should exist any such liens or encumbrances, or if there are any such obligations, liabilities or commitments, Seller shall be responsible for the same, and Seller hereby agrees to defend, indemnify and hold Purchaser harmless from the same as provided in Sections 8 and 9 hereof.

(2) **Accounts and Records.** At the time of the Closing, Seller shall furnish Purchaser copies of all current customer account lists, including street addresses, names, balances, payment histories, consumption histories, lists of uncollectibles and types of service (deduct meters, private meters, fire hydrants, private fire hydrants, sewer surcharge billings, etc.) and all computer

files relating to JCP Utility Company customer billing, current maps depicting all systems under construction, "as built", including any original tracings, sepias, or other reproducible material in possession of Seller or Seller's agent(s), materially related to the System.

B. Conveyances at Closing. At the Closing, Seller will convey to Purchaser by warranty deed, free and clear of all claims, liens and encumbrances other than Permitted Encumbrances (as such term is hereinafter defined), subject only to ad valorem taxes for 1999, the real property described on Schedule B, as the same shall be revised in accordance with the fourth sentence of the definition of the term "System" herein. At the Closing, Seller also will convey, by special warranty deed, subject only to ad valorem taxes for 1999, its rights to all easements in which it has an interest described on said Schedule B, as so revised, subject to Permitted Encumbrances. Seller hereby agrees to defend, indemnify and hold Purchaser harmless with respect to any adverse claim or assertion that Purchaser's right to the real property or use of any easement is defective.

C. Title Insurance. On or before July 21, 1999, Purchaser shall satisfy itself that it will accept title or deliver to Seller written objection to title matters set forth in the title commitment delivered by Seller to Purchaser on July 2, 1999 [in the amount of \$_____]. Notwithstanding the foregoing, Purchaser agrees, with the exception of parcels 1 (Water Treatment Plant), 2 (Wastewater Treatment Plant) and 3 (tract L - golf course lift station) as described in the "Key Map" provided to Purchaser by Seller on July 1, 1999, that it will accept the title policy subject to the survey exception which will not be deemed to be a title defect, subject to review and acceptance by Purchaser of the title information reflected on the plats and any required "as built", which Seller and Purchaser have agreed Seller shall deliver to Purchaser by July 8, 1999. Seller shall have ten (10) days to cure, or to commence to cure, any of the objections which Purchaser has specified. In the event that Seller cannot, or is unwilling to, cure such objections, then Seller shall give notice to Purchaser and Purchaser shall have the right, but not

County or St. Johns County, Florida. The System as now constructed is located within said real property, easements and rights-of-way. As for parts located in public rights-of-way, Seller (a) has obtained necessary approvals from appropriate governmental agencies for the use of the same and (b) has the right, power and authority to convey its rights therein to Purchaser as provided herein. As for parts described in clause (ii) of the first sentence of this Section 4D, Seller (a) has full legal right to the use of those properties as is necessary for the operation and maintenance of the System and (b) has the right, power and authority to convey its rights therein to Purchaser as provided herein. Seller hereby agrees to defend, indemnify and hold Purchaser harmless for the cost of acquiring any real property, easements or rights-of-way or for the relocation of any part of the System, if required as a result of failure of this representation and because said cost is not otherwise compensated by title insurance, pursuant to the provisions of Section 4C.

E. Warranties. At the Closing, Seller shall convey to Purchaser all outstanding unexpired material, equipment and performance warranties which relate to the System.

F. OMI Agreement. Prior to the Closing, Seller shall take all actions as shall be necessary or desirable to cause the Agreement for Operations, Maintenance and Management Services for Julington Creek Plantation, dated as of September 26, 1997, between Seller and Operations Management International, Inc., as heretofore amended (the "OMI Agreement"), to be assigned to Purchaser at the Closing, upon its existing terms and conditions; and prior to the Closing, Seller shall not, without the written consent of Purchaser, agree to any amendment of or modification to, or any waiver of any provision of, the OMI Agreement. Seller represents and warrants that a true, correct and complete copy of the OMI Agreement is attached hereto as Exhibit A.

G. CDD Lease. Prior to the Closing, Seller shall take all actions as shall be necessary or desirable to cause the CDD Lease to be assigned to Purchaser at the Closing, upon its

existing terms and conditions; and prior to the Closing, Seller shall not, without the written consent of Purchaser, agree to any amendment of or modification to, or any waiver of any provision of, the CDD Lease. Seller represents and warrants that a true, correct and complete copy of the CDD Lease is attached hereto as Exhibit B. In addition, following the Closing, Seller agrees, insofar as it is able, that it will cooperate with Purchaser in causing the water transmission lines and sewer force mains that are the subject of the CDD Lease to be dedicated to Purchaser.

H. OIC Agreement. Prior to the Closing, Seller shall take all actions as shall be necessary or desirable to cause the OIC Agreement to be assigned to Purchaser at the Closing, upon its existing terms and conditions; and prior to the Closing, Seller shall not, without the written consent of Purchaser, agree to any amendment of or modification to, or any waiver of any provision of, the OIC Agreement. Seller represents and warrants that a true, correct and complete copy of the OIC Agreement is attached hereto as Exhibit C.

L. ET&M Agreement. Prior to the Closing, Seller shall take all actions as shall be necessary or desirable to cause the ET&M Agreement to be assigned to Purchaser at the Closing, upon its existing terms and conditions; and prior to the Closing, Seller shall not, without the written consent of Purchaser, agree to any amendment of or modification to, or any waiver of any provision of, the ET&M Agreement. Seller represents and warrants that a true, correct and complete copy of the ET&M Agreement is attached hereto as Exhibit D.

5. CONDUCT OF BUSINESS PENDING CLOSING. Seller covenants and warrants that between the date of the execution by Seller and Purchaser of this Agreement and the date of the Closing, Seller will conduct the utility business of the System in the normal and usual manner, Seller will preserve intact the organization and properties of the System; and Seller will use its best efforts to comply in all material respects with all governing Federal, State and local laws, rules and regulations relating to the System including but not limited to any necessary certificates of

public convenience and necessity, licenses, permits, applications and the like, except for certificates of public convenience and necessity for the areas specified in Schedule A as not having been covered by such certificates. In addition, between such dates, without the prior written consent of Purchaser, Seller will not enter into (a) any new maintenance or construction contracts with respect to the System or (b) any agreements obligating it to provide service from the System to persons and/or locations outside of Seller's Service Area, in either such case, whether written or oral, nor will Seller renew any such existing contracts or agreements. Where service requests are made within Seller's Service Area, Seller will continue to conduct the utility business in the normal and usual manner.

6. ADDITIONAL REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller represents and warrants to Purchaser as follows:

A. **Corporate Existence and Power.** Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware, and has corporate power and authority to own all of its properties including, without limitation, those described in Schedule B hereto; to carry on the utility business of the System as now being conducted, to enter into this Agreement, to perform its obligations under this Agreement and to consummate the transactions contemplated by this Agreement. A certificate of good standing from the Delaware Secretary of State shall be furnished by Seller to Purchaser at the Closing.

B. **Compliance With Legal Requirements.** Seller has fulfilled and complied with all of the legal requirements applicable to the transactions contemplated by this Agreement. The execution and delivery of this Agreement by Seller, Seller's performance of its obligations under this Agreement, and the consummation of the transactions contemplated under this Agreement do not violate Seller's certificate of incorporation or by-laws, any applicable laws, or other legal restrictions or agreements. All necessary actions on the part of Seller to authorize the

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execution and delivery of this Agreement, Seller's performance of its obligations under this Agreement, and the consummation of the transactions contemplated under this Agreement have been taken.

C. **Binding Obligations.** To the best of its knowledge and belief, Seller is not in default of any provisions of any laws material to the performance of its obligations under this Agreement. This Agreement has been duly authorized, executed and delivered by Seller and constitutes a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms, subject to the effect of, and restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights and subject to the availability of the remedy of specific performance or other equitable relief. The deeds, bills of sale, assignments and other instruments which will be delivered by Seller at the Closing will have been duly authorized and executed and will be effective to vest in Purchaser good and valid title to the System.

D. **Tax Matters.** Seller covenants and warrants that Seller has filed all federal and state tax returns which are required to be filed and has paid all federal, state and local taxes or assessments and all assessments required by law, except for taxes and returns due after the Closing for the taxable year during which the Closing will occur, or any portion thereof (hereinafter called "current tax year"), in each such case, only to the extent that the failure to file or pay the same could result in the imposition of any lien or encumbrance upon any of the properties of the System. In addition, Seller covenants and warrants that it will prepare and file, or cause to be prepared and filed, all federal, state and local tax returns and reports required to be filed by Seller for the current tax year, and will make payment in full, when due, of all such federal, state and local taxes for the current tax year and any assessments relating to said tax year. Further, Seller covenants and warrants that at the time of the Closing there will be no taxes or assessments or any costs and

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expenses related thereto which will not be fully paid and discharged by Seller, except for the payment of ad valorem taxes for the current tax year, which taxes shall be prorated as of the date of the Closing and deducted from the amount of the Purchase Price payable by Purchaser as provided in Section 1 above. If the Closing occurs when 1999 taxes have not been assessed, taxes will be prorated as of the time of the Closing based on the taxes paid for the property for 1998 and deducted from the amount of the Purchase Price payable by Purchaser as aforesaid. Seller covenants and warrants to pay and to be fully responsible for the payment of any and all taxes, costs, expenses and other liabilities under this Section 6D not previously paid by Seller, whether for its prorated portion of taxes for the current tax year or for any past tax year, and shall fully defend, indemnify and hold Purchaser harmless against any and all taxes, costs, expenses and other liabilities as provided in and in accordance with the obligations of Seller under Sections 8 and 9 hereof.

E. Service Extensions. Seller represents that it has complied with all applicable regulatory requirements in extending its service to any area outside the territory described in any of its certificates of public convenience and necessity. Seller hereby agrees to defend, indemnify and hold Purchaser harmless with respect to any claim or assertion that Purchaser is without authority to provide service in any portion of Seller's Service Area.

F. Service Commitments.

(1) Seller agrees to return all prepaid water and sewer service commitment fees to its customers and to deliver the System to Purchaser free of all and any service commitments of any type, except for (a) Seller's customers as identified in Schedule C hereto, who are receiving service on the date of the Closing and (b) the persons that are parties to the Service Agreements listed in Schedule D hereto. Accordingly, except for (a) the service commitments referred to in the preceding sentence and (b) the agreements (if any) to provide service approved by Purchaser in

accordance with the second sentence of Section 5, Seller hereby agrees to defend, indemnify and hold Purchaser harmless from any claim for service alleged to have arisen prior to Closing.

(2) Purchaser assumes responsibility, except for rates, for providing service to Seller's customers as identified in Schedule C who are receiving service at the time of the Closing or who are parties to the Service Agreements listed in Schedule D hereto or the agreements (if any) to provide service approved by Purchaser in accordance with the second sentence of Section 5. Seller represents and warrants that there are no outstanding commitments to construct any facilities to serve any of Seller's customers listed in Schedule C or, except for the commitments set forth in the Service Agreements listed in Schedule D, any other parties, and that there are no existing commitments, responsibilities or obligations of Seller to provide wastewater reuse service. Except upon payment to Purchaser of its standard rates, fees and charges for connection and service, Purchaser will not assume Seller's commitments to construct facilities, or serve any of Seller's customers other than those listed in Schedule C and the parties to the Service Agreements listed in Schedule D. Said facilities include but are not limited to, sewer pump stations, sewer force mains, sewer gravity lines, water distribution and transmission lines, service piping for water and sewer service and any other appurtenances associated with the provision of water distribution and sewage collection and transmission service.

(3) Seller shall deliver to Purchaser at the Closing all of the Service Agreements listed in Schedule D hereto and all agreements (if any) to provide service approved by Purchaser in accordance with the second sentence of Section 5, together with all deposits and charges, including contributions-in-aid-of-construction (capacity fees), paid to Seller thereunder. Purchaser agrees to assume all such Service Agreements and to accept all such deposits and charges as payment in full of all deposits and charges, including charges similar to contributions-in-aid-of-construction (capacity fees), for the establishment of utility service by Purchaser in accordance with

such Service Agreements, other than charges to be imposed by Purchaser in respect of water meter fees. In addition, Purchaser agrees that it will not impose any sewer installation fees with respect to sewer services to be provided pursuant to such Service Agreements.

(4) Purchaser does not assume any existing rate schedules of Seller. Except during such reasonable period of time following the Closing as shall be necessary to enable Purchaser to integrate such customers into Purchaser's existing billing system, Purchaser agrees that its connection and user fees charged to present and future customers in Seller's Service Area will be in accordance with Purchaser's uniform published rates. Purchaser reserves the right to charge present and future customers in Seller's Service Area any pass-through fees (e.g., public service taxes, amounts payable pursuant to any interlocal agreement to which Purchaser may become a party, franchise fees, etc.) as enacted or approved by appropriate governmental entities, which pass-through fees may or may not be incorporated into the rates to be charged by Purchaser to present or future customers in Seller's Service Area.

(5) Seller represents and warrants that it is not a party to any cost recovery agreements entered into with third persons, except for such agreements as are identified in Schedule E hereto and that true, complete and correct copies of all such agreements are attached to said Schedule E. At the Closing, Seller shall (a) distribute to the persons entitled thereto all proceeds held by it pursuant to such cost recovery agreements and (b) assign all such unexpired agreements to Purchaser. Purchaser agrees that it shall accept such assignment of all such unexpired cost recovery agreements, and that it shall perform all of Seller's obligations thereunder.

G. **Zoning.** Seller covenants and warrants that existing zoning and building codes and governmental regulations applicable to the real property described in Schedule B do not prohibit the existing operation of the System thereon.

H. **Utilities.** Telephone, electric utility and any other utility service used in operation and maintenance of the System shall not be discontinued as of the date of the Closing upon request by Purchaser; provided, however, all charges for such services shall be prorated as of the date of the Closing. Utility deposits, paid by Seller, shall be the property of Seller.

I. **Environmental Matters.**

(1) To the best knowledge of Seller, (a) the System is, and, at the Closing, shall remain, in full compliance with all applicable Environmental Laws and all applicable occupational health and safety statutes and regulations and (b) no hazardous substance has been, or, at the Closing, will be, improperly stored upon, disposed of, spilled or otherwise released to the environment on or in the said property or easements by Seller or by any other party. For purposes of this Agreement, the definition of the term "hazardous substance" shall be that set out in Section 101(4) of the Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., except that for purposes of this Agreement, the term shall also include (a) petroleum (crude oil) and natural gas (whether existing as a gas or a liquid); and (b) any substance defined as hazardous or toxic by any state or local regulatory agency having jurisdiction over the operations of Seller.

(2) To the best knowledge of Seller, any tanks (whether above or below ground) in, on or at any of the said property or easements installed or used by Seller are, and, at the Closing, shall remain, in sound condition, free of corrosion or leaks which could permit any release of stored material.

(3) To the best knowledge of Seller, none of the said property or easements has been, or, prior to the Closing, will be, used by Seller or by any other party, for the processing, storing, or other utilization of asbestos, polychlorinated biphenyls ("PCB"), or radioactive substances except for any asbestos contained in AC pipe presently installed as part of

the System; however, the water system has been monitored for asbestos and the reports (and related analyses) did not reflect results which exceed the Maximum Contaminant Limitations (MCL's). Seller has received no notice that any of the foregoing materials are present on or at any of the said property or easements. In the event that Seller receives any such notice prior to the Closing, it shall immediately give notice thereof to Purchaser, in which case, Purchaser shall have the right, at its option, to elect to terminate this Agreement in accordance with the provisions of Section 25.

(4) To the best knowledge of Seller, (a) all hazardous waste resulting from the operations of Seller on or at any of the said property or easements has been, and, prior to the Closing, will be, disposed of in an environmentally sound manner and (b) none of those wastes have been, or, prior to the Closing, will be, disposed of in any site where they have been, are, or, due to the manner of disposition by Seller, will be released into the environment requiring corrective action. Seller has received no notice from any local, state or federal environmental agency of its possible involvement with any disposal site under investigation by such agency. In the event that Seller receives any such notice prior to the Closing, it shall immediately give notice thereof to Purchaser, in which case, Purchaser shall have the right, at its option, to elect to terminate this Agreement in accordance with the provisions of Section 25.

(5) Seller hereby agrees to defend, indemnify and hold Purchaser harmless for damages suffered or reasonable costs incurred by Purchaser as a result of Seller's discharge or release of sewage, effluent, waste water, pollutants, contaminants, hazardous wastes, hazardous substances or other substances from its properties or facilities, or for other air or water pollution caused by Seller, in either such case, on or prior to the date of the Closing, in violation of any Environmental Laws. Those damages or costs include, but are not limited to, the requirements of Federal, State, or local laws, ordinances, rules or regulations, to investigate, monitor, assess and evaluate the discharge or release of pollutants, contaminants, hazardous wastes, hazardous

substances, or other substances and to take such action as necessary to prevent, minimize, or mitigate the threat to the public or to the environment, including removal of the discharged or released material, and action necessary for a permanent remedy. For purposes of this provision, the terms "remove" or "removal" and "remedy" shall have the same meaning given to those terms in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C., § 9601 et seq. This indemnification is limited to events and conditions occurring during Seller's operation and ownership of the System, and shall be effective regardless of whether or not Seller had actual knowledge of the occurrence or existence thereof (whether at the time of such occurrence or thereafter).

(6) Without limiting the rights and remedies granted to Purchaser in the foregoing Sections 6I(1) through 6I(5), Seller agrees that Purchaser may, at all times prior to the Closing, do such investigation, sampling, analysis and testing of the properties of the System as necessary to determine the condition of the soils, the presence of any material in those soils, including hazardous waste and substances, petroleum products or derivatives, and underground storage tanks, pipes, and other associated equipment, and to determine the hydrology of the area, the soil type and the species of vegetation present. If any hazardous waste or substance regulated pursuant to any Environmental Law, or underground storage tanks or pipes, are discovered on any of such properties, such that the owner of such property would be required under any Environmental Law to incur response or remedial costs, or if there are any wetland conditions which Purchaser, at its sole discretion, finds unacceptable, Purchaser shall have the right, at its option, to elect to terminate this Agreement in accordance with the provisions of Section 25.

To perform the test inspections, investigations and analyses authorized in the preceding paragraph, Purchaser may enter and remove, disturb and/or destroy, or bore through, as much of the vegetation surface or surface of the properties of the System as Purchaser believes is

necessary to perform those functions. Purchaser shall replace any fences removed, disturbed and/or destroyed as soon as possible following such entry. If, however, the Closing does not occur within the time provided in Section 2, in addition to repairing any fencing that Purchaser removed, disturbed and/or destroyed, Purchaser also agrees to repair or replace any part of the property that is disturbed or destroyed, returning the surface and significant vegetation to its prior condition. If repair, replacement or restoration cannot be reasonably accomplished, Purchaser shall pay reasonable compensation for Seller's loss. All such investigation shall be conducted at Purchaser's sole risk and expense. Purchaser hereby agrees to defend, indemnify and hold harmless Seller from any damage, liability and costs including reasonable attorneys' fees resulting from negligent acts or omissions of Purchaser, its agents or employees, during such investigation, to the extent permitted by Section 768.28, Florida Statutes, and except to the extent any injury is caused by actions or negligence of Seller.

J. Compliance with Laws; Governmental Authorizations.

(1) Seller is not, and at the Closing will not be, in violation or default under any statute, law, ordinance, rule, regulation, judgment, order, decree, permit, concession, grant, franchise, license or other governmental authorization, approval or requirement applicable to it or its operations with respect to the System.

(2) Seller has not received any citation or notice of violation of any federal, state or local statute, ordinance or regulation of any kind which is currently outstanding. In the event that Seller receives any such notice prior to the Closing, it shall immediately give notice thereof to Purchaser, in which case, Purchaser shall have the right, at its option, to elect to terminate this Agreement in accordance with the provisions of Section 25.

(3) Seller has all permits, concessions, grants, qualifications, franchises, licenses, approvals, or other governmental authorizations necessary for the conduct of its business

relating to the System and all of the foregoing have been duly obtained and are in full force and effect and there are no proceedings pending or, to the best knowledge of Seller, threatened which may result in the revocation, cancellation, suspension or adverse modification of any thereof.

(4) Seller is unaware of any reason why all permits, concessions, grants, franchises, licenses, approvals, or other governmental authorizations issued to Seller by any local, state, or federal agency or instrumentality will not or cannot be transferred to Purchaser upon compliance with the applicable regulatory procedures to transfer same. Schedule F hereto consists of a list and copies of current or active permits, applications or other documents, together with effective dates and expiration dates (if any) thereof, demonstrating approval of the facilities of the System associated with the production, treatment and pumping of water and the treatment and disposal of wastewater by all applicable governmental authorities, including, but not limited to: (a) Florida Department of Environmental Regulation or the regulatory predecessor, (b) St. Johns River Water Management District, (c) St. Johns County Water and Sewer Authority and (d) United States Environmental Protection Agency.

7. REPRESENTATIONS OF PURCHASER. Purchaser makes the following representations to Seller, which shall survive the Closing hereunder:

A. Existence and Power. Purchaser is a body politic and corporate duly organized and existing under the laws of the State of Florida, and has all requisite power and authority to enter into this Agreement, to perform its obligations under this Agreement and to consummate the transactions contemplated by this Agreement.

B. Compliance With Legal Requirements. Purchaser has fulfilled and complied with all of the legal requirements applicable to the transactions contemplated by this Agreement, including, without limitation, the applicable provisions of Chapter 180, Florida Statutes relative to the purchase of a water and sewer utility by a municipal governmental entity. The

execution and delivery of this Agreement by Purchaser, Purchaser's performance of its obligations under this Agreement, and the consummation of the transactions contemplated under this Agreement do not violate Purchaser's charter or by-laws, any applicable laws, or other legal restrictions or agreements. All necessary actions on the part of Purchaser to authorize the execution and delivery of this Agreement, Purchaser's performance of its obligations under this Agreement, and the consummation of the transactions contemplated under this Agreement have been taken.

C. **Binding Obligation.** To the best of its knowledge and belief, Purchaser is not in default of any provisions of the laws of the State of Florida material to the performance of its obligations under this Agreement. This Agreement has been duly authorized, executed and delivered by Purchaser and constitutes a valid and legally binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, subject to the effect of, and restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights and subject to the availability of the remedy of specific performance or other equitable relief.

8. **ASSUMPTION OF LIABILITIES BY SELLER.** Except for (a) Purchaser's obligation to serve those customers identified in Schedule C and (b) the Service Agreements listed on Schedule D, Seller hereby agrees to defend, indemnify and hold Purchaser harmless with respect to any and all contracts, obligations, claims, suits, judgments, damages, settlements, taxes, costs, expenses and other liabilities of Seller and for the breach of any covenant of Seller under this Agreement, including without limitation any contracts or agreements of Seller for or relating to utility cut-ins, connections or the provision of utility services, however or whenever arising, whether authorized or unauthorized, in existence at the time of the Closing. Except as expressly provided in this Agreement, at no time and under no circumstances will Purchaser have any obligation or responsibility whatever to the former officers, employees, agents, personal representatives,

contractors, consultants or assigns of Seller. Should any claims, demands, suits, actions or the like be advanced against Purchaser arising from or related to any relationship of any such former officers, employees, agents, personal representatives, contractors, consultants or assigns of Seller, Seller hereby agrees to defend, indemnify and hold Purchaser harmless therefrom in accordance with Seller's obligations under Section 6, Section 8 and Section 9 hereof.

9. **NOTICE AND RIGHT TO DEFEND.** In the event any assessment, claim, demand, proceeding, or suit is brought against Purchaser for which Seller may be liable or obligated to pay under any agreement, warranty or indemnity contained in this Agreement (including, but not limited to, Sections 4, 6 and 8 hereof), Purchaser shall give Seller prompt notice thereof in writing in the manner set forth in Section 17. Seller shall have thirty (30) days from the receipt of such notice to cure or satisfy the assessment, claim, demand, proceeding or suit; provided, however, that in the event that such assessment, claim, demand, proceeding or suit cannot be cured or satisfied within such period, if at the end of such period Seller shall in good faith be diligently pursuing the completion of such cure or satisfaction, then Seller shall have such additional reasonable period (not to exceed 60 days) as shall be necessary to complete such cure or satisfaction; and provided, further, that Purchaser's forbearance in pursuing any remedies during such period shall not constitute a waiver of any rights Purchaser may have thereafter to pursue such remedies, as hereinafter provided. If, at the end of such thirty (30) day period (or such extension thereof as may be permitted as provided in the preceding sentence), Seller shall have failed to cure or satisfy such assessment, claim, demand, proceeding or suit, then Purchaser shall have the right to pursue any and all remedies available to it against Seller at law or in equity, including without limitation, the right to cure or satisfy such assessment, claim, demand, proceeding or suit for the account of Seller and to bring suit against Seller for recovery of the costs thereof. Notwithstanding the foregoing, if Purchaser determines in good faith that

refraining from taking any action during such thirty (30) day period (or such extension thereof as may be permitted as aforesaid) would expose Purchaser to any personal liability or would be unduly prejudicial to Purchaser, then Purchaser shall be entitled to take such action as it in good faith determines is reasonably necessary to avoid such liability or prejudice.

10. COLLECTIONS. As provided in Section 4A(2), at the Closing, Seller shall furnish Purchaser with copies of all current customer account lists. Seller, or its assigns, shall have the right to all accounts for services provided by Seller prior to the date of the Closing. On or about the date of the Closing, Seller and Purchaser jointly shall cause the meter for each customer's water and/or sewer account to be read. Seller shall promptly thereafter bill and collect its charges for water and sewer service up to the joint meter reading date, as well as its pro forma base facility charges. Seller shall settle in full with all its customers based upon the joint meter reading and its final billing. Each customer account shall be settled in full at this billing. Seller shall neither bill nor collect any charges for services rendered to customers served by the System after the joint meter reading date.

11. CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATIONS HEREUNDER. All of the obligations of Purchaser under this Agreement are subject to the fulfillment by Seller of each of the following conditions:

A. There is and shall be no material error, misstatement, or omission in the representations and warranties made by Seller in this Agreement or pursuant to this Agreement, and in the event any error, misstatement or omission, whether or not material, shall come to the attention of Seller, Seller will promptly cause the same to be remedied at no cost to Purchaser.

B. Seller's representations and warranties contained in this Agreement are made both at and as of the time of the execution and delivery of this Agreement and at and as of the time of the Closing and will be true in all material respects at the Closing and shall survive the Closing;

and Seller will have performed or complied with all agreements and conditions required by this Agreement to be performed by it prior to or at the Closing.

C. All instruments and documents required to carry out this Agreement or incidental thereto and all other related matters will have been approved as to form by counsel for Purchaser.

D. Seller, on behalf of and with cooperation of Purchaser, shall have obtained the approvals of the St. Johns County Water and Sewer Authority and the St. Johns County Board of Commissioners for the sale and transfer to Purchaser pursuant to this Agreement of the System and Seller's certificates of public convenience and necessity, in each such case, in accordance with all applicable Florida laws and the rules and regulations of the St. Johns County Water and Sewer Authority and without the imposition upon Buyer of any condition deemed by it, in its reasonable judgment, to be unduly burdensome to it, it being understood and agreed by Seller and Buyer that any assertion by St. Johns County or the St. Johns County Water and Sewer Authority of regulatory authority over Buyer's operation of the System (including, without limitation, regulation of Buyer's rates and charges for water and/or sewer service) shall be deemed to be unduly burdensome to Buyer.

E. At the Closing, the OMI Agreement, the ET&M Agreement and the CDD Lease shall have been assigned to Purchaser, upon their respective existing terms and conditions.

12. **CAPACITY COMMITMENT.** Julington Partners Limited Partnership ("Developer") is the owner of a certain development located in St. Johns County, Florida ("Development") as more particularly described in Schedule G attached hereto and made a part hereof. By separate Water and Sewer Capacity Standby Agreement to be executed and delivered by Purchaser and Developer on the date of the Closing in substantially the form attached hereto as

Exhibit E, Purchaser will agree to set aside and provide water and sewer capacity to serve the Development as provided therein.

13. **DEFAULT/REMEDIES.** Because of the unique nature of the rights and responsibilities of the parties under this Agreement, it is understood and agreed that in the event of a breach of this Agreement by either party, monetary damages would be wholly inadequate as a remedy for either party. Accordingly, the parties agree that each shall have the right of specific performance against the other to require the defaulting party to perform in accordance with the terms and provisions of this Agreement, in addition to all other rights and remedies available at law or in equity.

Notwithstanding anything to the contrary contained herein, in the event of any dispute arising under this Agreement, Seller and Purchaser agree that they shall use their best efforts to attempt to resolve such dispute (including, without limitation, through the use of mediation) prior to filing suit with respect thereto. In the event of any litigation arising hereunder, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees, and jurisdiction and venue for any such litigation shall lie in the County of Duval, Florida.

14. **ASSIGNMENT.** Except as expressly provided for herein, neither Seller nor Purchaser shall have the power or authority to assign this Agreement or any of its rights, duties or obligations hereunder to a third party, without the express written consent of the other party, which consent shall not unreasonably be withheld.

15. **HEADINGS.** Any headings preceding the text of the several sections, subsections or schedules of this Agreement shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

16. **EXECUTION OF DOCUMENTS AND CLOSING COSTS.** Seller will prepare and submit to counsel for Purchaser for approval as to form and Seller and Purchaser will execute

any further instruments, documents, writings and papers as may be necessary or required in the performance of the terms and to effectuate the intent of this Agreement, and Seller will pay all costs incidental thereto. Seller and Purchaser will pay all other closing costs, as follows:

Seller shall pay:

- (a) documentary taxes;
- (b) Seller's attorneys' fees;
- (c) Seller's accountants' fees;
- (d) Seller's engineer's fees;
- (e) costs of surveys required for title insurance;
- (f) costs of title insurance for all real property other than easements; and
- (g) recording fees for satisfaction of mortgages.

Purchaser shall pay:

- (a) recording fees for deeds, including easement deeds; and
- (b) Purchaser's attorneys' fees.

Purchaser and Seller represent to each other that neither has employed a broker as its representative in this transaction and shall indemnify each other against any such claims to the contrary.

17. **NOTICES.** All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, delivered by a nationally recognized overnight delivery service or mailed by Certified or Registered Mail, return receipt requested, postage prepaid:

A. if to Seller, to JCP Utility Company, c/o Cypress Realty, Inc., 1800 West Loop South, Suite 850, Houston, Texas 77027, with a copy to Bruce May, Esq., Holland & Knight LLP, 315 South Calhoun Street, Tallahassee, Florida 32301, Counsel for Seller; and

B. if to JEA, to the Strategic Assessment Officer, JEA, 21 W. Church Street, Jacksonville, Florida 32202-3139, with a copy to the Office of General Counsel of the City of Jacksonville at 117 West Duval Street, Suite 480, Jacksonville, Florida 32202.

The person and address to whom notices are to be delivered or sent may be changed by delivering written notice thereof to the other party in the manner provided above not less than ten (10) days prior to the effective date of said change.

18. **FLORIDA LAW TO GOVERN.** This Agreement is being delivered and is intended to be performed in the State of Florida and shall be construed and enforced in accordance with the laws of such state.

19. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties hereto with respect to the purchase and sale herein described and the other transactions herein contemplated and supersedes all prior agreements between the parties hereto. This Agreement shall be construed as having resulted from joint negotiation and authorship.

20. **GENDER AND DEFINITIONS.** Where the context requires, the terms "Seller" and "Purchaser" shall include the singular and the plural and shall include the masculine, feminine, and neuter genders.

Plural shall include the singular and singular shall include the plural in all applicable instances.

21. **SEVERABILITY OF INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions of this Agreement shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void, and shall be deemed separable from the remaining covenants,

agreements or provisions, and shall in no way affect the validity of any of the other provisions of this Agreement.

22. **BINDING EFFECT.** All rights and obligations hereunder shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

23. **COVENANT NOT TO COMPETE.** Except for businesses in existence and operating as water and/or sewer utilities on the date of the Closing, Seller agrees not to establish or reestablish or reopen any business or trade similar to the business of the System, the assets of which are hereby being sold, within the County of Duval, Florida, for a term of five (5) years from the date of the Closing. At the time of the Closing, Seller's officers will provide Purchaser with individual covenants not to compete in the following form:

INDIVIDUAL COVENANT

Except for businesses in existence and operating as water and/or sewer utilities on the date hereof, the undersigned agrees not to establish or reestablish or reopen any business, trade or occupation similar to the business of JCP Utility Company's water and sewer system, sold to JEA by separate agreement, or in any manner to become interested directly or indirectly either as an employee, owner, partner, agent, stockholder, director, officer, consultant or otherwise, in any such business or trade or occupation within the County of Duval, Florida, for a term of five (5) years from the date hereof.

24. **CONFIDENTIALITY.** To the fullest extent permitted by applicable law, the terms and conditions of this Agreement and information secured by each party from the other as a result of this Agreement are confidential and shall not be made public or divulged to third parties, except with the prior consent of the other party or as compelled by law or legal process. The provisions of

this Section 24 shall survive the Closing and any termination of this Agreement pursuant to Section 25.

25. **TERMINATION OF AGREEMENT.** In the event that either party shall, pursuant to the terms of this Agreement, be entitled to elect to terminate this Agreement, such party may give notice in writing to the other party of such election and, upon receipt by such other party of such notice, this Agreement shall thereupon terminate and, except as provided in Section 24, the rights and obligations of the parties hereunder shall thereupon cease.

26. **RIGHTS NOT EXCLUSIVE.** The rights and remedies provided for in this Agreement are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, subject, however, to the right of Seller to cure or satisfy assessments, claims, demands, proceedings and suits as provided in Section 9 hereof.

[Remainder of page intentionally left blank]

Docket No. 990696-WS
Docket No. 992040-WS
Exhibit _____ (WGY-3)
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IN WITNESS WHEREOF, the undersigned parties have duly executed this Agreement as of the date this Agreement is executed on behalf of Purchaser as indicated below.

[Corp. Seal]

SELLER:

JCP UTILITY COMPANY

By: _____

Its _____

Witnesses

PURCHASER:

JEA

By: _____

Walter P. Bussells,
Managing Director and
Chief Executive Officer

Attest _____

Staff Support Assistant

Date of Execution by Purchaser:

_____, 1999

Form approved:

Office of General Counsel

Docket No. 990696-WS

Docket No. 992040-WS

Exhibit _____ (WGY-3)

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I hereby certify that the expenditure contemplated by the foregoing contract has been duly authorized, and provision has been made for the payment of the monies provided therein to be paid.

John Wolfel,
Controller
JEA

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INDEX OF ATTACHMENTS TO
WATER AND SEWER ASSET PURCHASE AGREEMENT
JCP UTILITY COMPANY

Schedules:

- A. - Service areas of JCP Utility Company.
- B. - Description of assets to be purchased.
 - Appendix 1: Water and sewer facilities.
 - Appendix 2: List of easements acquired by JCP Utility Company.
 - Appendix 3: List of fee simple properties acquired by JCP Utility Company.
- C. - List of JCP Utility Company's existing service connections.
- D. - List of JCP Utility Company's existing Service Agreements.
- E. - List and copies of JCP Utility Company's existing Cost Recovery Agreements.
- F. - List and copies of current or active permits, applications or other documents between JCP Utility Company and all applicable Federal, State and local governmental authorities.
- G. - Description of Julington Partner Limited Partnership's Development in St. Johns County, Florida

Exhibits:

- A. - Agreement for Operations, Maintenance and Management Services for Julington Creek Plantation, dated as of September 26, 1997, between Seller and Operations Management International, Inc.
- B. - Agreement Between the Julington Creek Plantation Community Development District and JCP Utility Company Regarding Licensing of Use of Utility Improvements, dated _____, 1998
- C. - EJCDC Standard Form of Agreement, effective January 27, 1999, between Seller and Ortega Industrial Contractors.
- D. - Agreement (ET&M No. 98-248), dated November 24, 1998, between Seller and England, Thims & Miller, Inc. relating to the expansion of Seller's Julington Creek Plantation water treatment plant.

E. - Form of Water and Sewer Capacity Standby Agreement between Purchaser and Julington Partners Limited Partnership.

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EXHIBIT "C"
JEA/DDI AGREEMENT

JUL 16 '99 08:26AM ST JOHNS CO ADMIN
Jul-15-99 04:54pm From-JEA TREASURY

8048657382

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D.D.I., Inc.
4310 Pablo Oaks Court
Jacksonville, Florida 32224

April 14, 1999

JEA
21 West Church Street
Jacksonville, FL 32202

RE: Proposed Agreement for Wholesale Water and Wastewater Service

Ladies and Gentleman:

D.D.I., Inc. and its affiliate Estuary Corporation (herein collectively referred to as "DDI") are the owner of certain lands located in Duval and St. Johns Counties as more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property"). DDI intends to make application for certain development approvals from federal, state and local governmental agencies and authorities to permit development of the Property. DDI, either directly or through its affiliates (the "Utility Company"), also intends to make application with the Florida Public Service Commission ("PSC") for certification as a water and wastewater utility to service the Property (the "PSC Certification").

JEA is a certified water and wastewater utility service provider authorized by Ordinance 97-12-E, to provide water and wastewater utility service on a wholesale and retail basis. JEA and DDI have executed this Letter of Intent to evidence their mutual interest in entering into an Agreement for Wholesale Water and Wastewater Service Supply to the Property and to reflect certain agreements with respect to the processing of the PSC Certification by DDI or the Utility Company until such time as a final agreement for Wholesale Water and Wastewater service can be consummated between JEA and DDI.

1. Wholesale Service Agreement. At such time as the Utility Company shall obtain PSC Certification for the Property on terms and conditions satisfactory to it in its sole discretion, the Utility Company and JEA shall negotiate in good faith the terms of a wholesale service agreement for the supply of water and wastewater utility service, including reuse water ("Water and Wastewater Utility Service") to the Property (the "Service Agreement") in accordance with the plan of development established by DDI for the Property (the "Development Plan").

JUL 16 '99 08:26AM ST JOHNS CO ADMIN
Jul-15-98 04:54pm From: JEA TREASURY

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2. **General Terms of Service Agreement.** The parties agree that the general terms of the Service Agreement shall include those provisions customarily incorporated in the wholesale service agreements between JEA and other customers in the area and shall include the following provisions:

- 2.1 **Capital Improvements and Service Obligations.** The cost of transmission lines and easement locations for Water and Wastewater Utility Services on and off site necessary to serve the Development plan shall be mutually agreed upon between JEA, DDI, and the Utility Company.
- 2.2 **Cost of Service.** The Utility Company shall pay to JEA for wholesale Water and Wastewater Services to the Property those amounts in accordance with the Published Tariff Rates for Water and Sewer as may be amended pursuant to public hearing based on cost of service. (see Exhibit "B")
- 2.3 **Right of First Refusal.** The Utility Company shall provide to JEA on terms and conditions mutually satisfactory to them a right of first refusal to purchase the utilities system; provided, however that portion of the system within Duval County normally transferred by a developer to JEA at no cost will be transferred at no cost to the JEA under this provision whether or not JEA is the successful purchaser of the system as a whole.
- 2.4 **Term of Agreement.** The term of the Service Agreement shall continue through the estimated completion date of the Development Plan (presently 20 years) with terms of renewal as may be mutually agreed upon between the parties.
- 2.5 **Management.** At the option of the Utility Company, JEA will provide operations management service to the Utility Company at rates to be agreed upon between JEA and the Utility Company. Further, the Utility Company agrees that should it elect to out-source billing services, JEA will be afforded a right of first refusal to provide such services on terms and conditions mutually agreed upon between JEA and the Utility Company. If the Utility Company elects to outsource operations or management, JEA will be afforded the exclusive right to provide such services at JEA's allocated cost, to that portion of a contiguous service territory comparable to the Duval County portion of the Property.

JUL 16 '99 08:27AM ST JOHNS CO ADMIN
Jul-15-98 04:55pm From: JEA TREASURY

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- 2.6 Well Sites. DDI agrees to supply well sites and a water plant site to JEA as may be reasonably necessary to service the Property, the location, number and capacity of well sites to be mutually agreed upon between JEA and DDI, consistent with all permitting requirements for the Property and consistent with all water resource management plan requirements for the Property as may be developed by DDI.
- 2.7 Exclusive Provider. During the term of the Service Agreement, JEA shall be the exclusive wholesale provider of Water and Wastewater Utility Service to the Property.
3. Pending PSC Certification. In consideration of the terms of this Letter of Intent, JEA agrees that until expiration of this Letter of Intent (and thereafter during the term of the Utility Service Agreement) the Utility Company shall have the sole and exclusive right to purchase wholesale or retail Water and Wastewater Utility Service of any kind or nature from JEA to service the Property and until expiration of this Letter of Intent, JEA agrees that it will not take a position adverse to the Utility Company in its application for the PSC Certification at the administrative or judicial levels, and will cooperate in good faith with the Utility Company in its application for the PSC Certification.
4. Failure to Obtain Certification. In the event DDI or the Utility Company shall abandon the PSC Certification application or if the PSC application is finally denied without appeal, or if JEA and DDI are unable to reach mutual agreement upon final terms and provisions of the Service Agreement, then in such event JEA, DDI and Utility Company acknowledge and agree that they shall mutually agree upon a division of a comparable contiguous service territory such that the integrity of the system is maintained to the greatest extent possible as to the Duval County customers.
5. Term of this Letter of Intent. This Letter of Intent shall remain in effect until the earlier of (i) such time as DDI or the Utility Company shall abandon the PSC Certification application; (ii) such PSC Certification application shall be finally denied without appeal; or (iii) twenty four (24) months from the date hereof as may be extended thereafter for such period of time as the Utility Company continues pursuit of any contested element of the

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Jul-15-99 04:55pm From: JEA TREASURY

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PSC Certification through the administrative or judicial process, it being intended that the term of this Letter of Intent shall be extended through the time period of any such proceedings.

DDI and JEA intend that this letter represents their agreement to negotiate in good faith with respect to the term of the final Service Agreement on the general terms and conditions outlined herein. The parties acknowledge that no legal obligation is created between JEA and DDI as to the terms of the final Service Agreement until such time as DDI or the Utility Company and JEA shall enter into the Service Agreement on terms acceptable to both of them. Each party to this Letter of Intent represents that it has the authority to execute and deliver this Letter of Intent without the consent or joinder of any other party.

If the foregoing correctly reflects our understandings, please execute the enclosed acknowledgment copy of this letter.

Very truly yours,

D.D.I., INC. A Florida corporation

By: *H. Jay Skelton*
Name: H. Jay Skelton
Title: President

Print Name: _____

[CORPORATE SEAL]

Print Name: _____

The undersigned acknowledges and agrees to the foregoing.

JEA, a body politic

Cathy Barnwell
Print Name: Cathy Barnwell

By: *Walter P. Bussells*
Name: Walter P. Bussells
Title: Managing Director and
Chief Executive Officer

[CORPORATE SEAL]

JUL 16 '99 08:27AM ST JOHNS CO ADMIN
Jul-15-99 04:56pm From-JEA TREASURY

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IEA Letter of Intent
April 14, 1999
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APPROVED:


Office of General Counsel

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by Hand Delivery (*) or U.S. Mail this 26th day of January, 2001 to the following persons:

Richard D. Melson, Esq.
Hopping Law Firm
P.O. Box 6526
Tallahassee, Florida 32314-6526

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

J. Stephen Menton, Esq.
Kenneth A. Hoffman, Esq.
Rutledge Law Firm
P.O. Box 551
Tallahassee, Florida 32302

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Korn & Zehmer, P.A.
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Jacksonville, FL 32216

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

Michael B. Wedner, Esq.
Asst. General Counsel
JEA
St. James Building, Suite 480
117 West Duval Street
Jacksonville, FL 32202



Suzanne Brownless, Esq.