

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for Original Certificate of ) DOCKET NO. 20190168-WS  
Authorization and Initial Rates and Charges )  
for Water and Wastewater Service in Duval, ) FILED:  
Baker and Nassau Counties, Florida by )  
FIRST COAST REGIONAL UTILITIES, )  
INC. )  
\_\_\_\_\_ )

**JEA’S RESPONSE IN OPPOSITION TO FIRST COAST REGIONAL UTILITIES’  
MOTION TO COMPEL DISCOVERY**

JEA, pursuant to rule 28-106.204, Florida Administrative Code, responds in opposition to First Coast Regional Utilities’ Motion to Compel Discovery (“Motion”). JEA objects to the discovery items at issue in the Motion as not relevant to the subject matter of the pending action and not reasonably calculated to lead to the discovery of admissible evidence. The items at issue in the Motion are plainly outside the scope of this proceeding and JEA should not be required to respond to them.

**I. The Discovery Items At Issue**

First Coast served JEA with its Second Interrogatories and Second Request for the Production of Documents on August 31, 2020. JEA served its Answers to the Second Interrogatories and Responses to the Second Request for the Production of Documents on September 30, 2020. Copies are attached as exhibits A and B, respectively.

JEA objected to interrogatories 18-21 and 23-48 and requests for production 21-25. Broadly stated, these items seek information relating to: 1) JEA franchise fee collections by customer type broken down by year; 2) JEA’s collection of the gross receipts tax, public service tax, and Florida sales tax; 3) studies, reports, or analyses relating to the franchise agreement between the City of Jacksonville (“COJ” or “City”) and JEA; 4) any revenue sharing agreements

between the COJ and State “that rely upon” the franchise fees, gross receipts tax, public service tax, or sales tax; 5) any bonds issued by the COJ where the franchise fees, gross receipts tax, or public service tax has been pledged as revenue source, collateral, or security; 6) percentage of the franchise fee and public service tax imposed on customers in St. Johns and Nassau counties; and 7) information regarding JEA’s “relationship” with the Nocatee development in St. Johns County. Rule 1.280(b)(1), Fla. R. Civ. P., provides that “[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action . . . .” None of the discovery items raised by the Motion are relevant to the subject matter of the pending action, First Coast’s Application.

**II. First Coast’s Asserted Bases For The Subject Discovery**

In its Motion, First Coast states that the subject discovery items concern “JEA’s alleged exclusive franchise and related issues, JEA’s finances, and JEA’s provision of services.” Motion, ¶ 42. It then states that it “seeks this information to determine whether the franchise itself is illegal, either in whole or in part, and thus unenforceable.” Motion, ¶ 43. Legality of JEA’s franchise, as a COJ ordinance, is a constitutional issue for a Court rather than the Commission and the subject discovery requests do not relate to either JEA’s finances or JEA’s provision of services. Each of these bases is discussed in turn below.

**A. First Coast seeks the subject discovery to determine whether JEA’s franchise is “illegal,” which is an issue for a Court**

First Coast in its Motion states that it seeks the subject discovery “to determine whether the franchise itself is illegal . . . and thus unenforceable.” JEA is wholly owned by the COJ. JEA has an exclusive franchise to provide water and wastewater service within the City boundaries pursuant to section 21.07 of the City Charter and a franchise agreement between the City and JEA titled as an Interlocal Agreement Regarding Franchise Fee. In addition, through an

interlocal agreement, Nassau County granted JEA the exclusive authority to provide water and wastewater service to the portion of the County in which the subject development is located. Article VIII, sections 1 and 2, of the Florida Constitution establish and delineate the powers of counties and municipalities.

The Motion does not describe any alleged relevance or connection between the subject discovery items and the legality of JEA's franchise or even suggest how the franchise is "illegal" in its view. It lays out no argument as to how the information sought in the subject interrogatories and requests for production would tend or prove or disprove the franchise's legality. Regardless, only a Court can declare a local ordinance to be unconstitutional or otherwise illegal. *See, e.g., In Re: Show Cause Order v. Charter Air Center, Inc.*, Docket No. 780771, Order No. 15249 (Fla. P.S.C. May 3, 1979) ("Florida Law prohibits an Administrative Agency from determining the constitutionality of any statute or rule in a proceeding before it. Such a determination has been held to be a judicial function only and outside of the authority held by an administrative agency."); *In Re Jasmine Lakes Utilities Corp.*, Docket No.: 920148-WS (Fla. P.S.C. Nov. 18, 1993) ("It is well established that a statute is presumed to be constitutional and must be given effect until judicially declared unconstitutional. The right to declare a statute unconstitutional is purely a judicial power and cannot be exercised by executive or administrative officers."); *Communications Workers Of America, Local 3170 v. City Of Gainesville*, 697 So. 2d 167, 170 (Fla. 1st DCA 1997) (concluding that "[t]he Administrative Procedure Act does not purport to confer authority on administrative law judges or other executive branch officers to invalidate statutes on constitutional or any other grounds"). If First Coast wishes to challenge the legality of JEA's franchise, it needs to file a judicial action to do

so. Legality of JEA's franchise is not an issue for this Commission proceeding, making any discovery on that issue outside the permissible scope.

**B. The subject discovery does not pertain to JEA's finances or JEA's provision of services**

In addition to JEA's franchise, the Motion states that the subject discovery concerns "JEA's finances" and "JEA's provision of services." Motion, ¶ 42. None of the discovery items at issue concern JEA's finances, at least to any material level. JEA's collection of franchise fees and taxes paid to others may impact the finances of the entities receiving those taxes and fees, but not those of JEA.

JEA's finances matter in this case only to a very limited extent -- the assurance that JEA is able to operate and maintain the water and wastewater facilities that the developer is required to construct at its expense and then dedicate to JEA under the PUD Ordinance. In 2019, JEA's Water and Wastewater Systems generated \$450 million in operating revenue and had net capital assets of approximately \$2.75 billion, serving approximately 370,000 water customers and about 278,000 wastewater customers.<sup>1</sup> The subject development, even when fully built out, would comprise only a few percentage points of JEA's system. First Coast has not suggested anywhere in this docket that if the developer complies with the PUD Ordinance by dedicating the treatment capacity to JEA as required by the ordinance, that JEA lacks the financial means to operate and maintain the facility. None of the subject discovery items speak to "JEA's finances," let alone to a level that would call into question JEA's ability to operate the system in compliance with the PUD Ordinance.

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<sup>1</sup> Direct Testimony of Joseph E. Orfano on Behalf of JEA, filed June 26, 2020, p. 4.

Similarly, the discovery items at issue have no relation to “JEA’s provision of services” to the development. As stated throughout this proceeding, JEA is ready, willing, and able to serve the area in compliance with the PUD Ordinance. The PUD Ordinance states that “the [developer] shall provide, at its expense, on-site treatment capacity to serve the needs of this Rural Village PUD, for potable water, wastewater, and reuse water at levels and to standards acceptable to JEA, to be dedicated to JEA for operation and maintenance or for contract operation.” JEA’s provision of services for this development means operating and maintaining the capacity that has to be provided by the developer at its own expense and then dedicated to JEA. The discovery items at issue do not relate to JEA’s provision of services to the development in compliance with the PUD Ordinance.

### **III. The Phrasing Of JEA’s Objections Is Entirely Appropriate**

The Motion also takes issue with the phrasing of JEA’s objections, which is particularly remarkable given that First Coast repeatedly uses the same words in its own objections to JEA’s discovery. Nonetheless, there is nothing inappropriate in the phrasing of the objections. The rule requires the grounds or reasons for the objection to be stated, which JEA did.

Paragraph 40 of the Motion states that “[w]ith the exception of Request 25, each and every Interrogatory and Request listed above was responded to by JEA with the following boilerplate objection: ‘Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.’ No specific grounds were stated as the basis for these objections.”

First Coast has used the same phrasing in its objections to discovery requests made by JEA. First Coast’s responses to JEA’s interrogatories 96-100 and 102 were each as follows:

“Objection. First Coast objects to this request as exceeding the scope of permissible discovery as not calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.” So incredibly on the one hand, First Coast states that JEA’s responses are “boilerplate” and “lacking specific grounds” yet on the other hand repeatedly uses the same words to object to discovery from JEA.

Regardless, there is nothing inappropriate with how JEA phrased its objections. Rule 28-106.206, F.A.C., provides that “parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure.” Rule 1.340(a), Fla. R. Civ. P., relating to interrogatories, states that “the grounds for objection must be stated and signed by the attorney making it” and rule 1.350(b), relating to requests for production, states that “the reasons for the objection shall be stated.” JEA stated its grounds in its objections -- that the discovery sought was outside the allowable scope as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

First Coast’s argument that JEA’s objections lack some unstated additional level of required specificity (Motion ¶¶ 40-41) has no basis in the rules. *See, e.g., Am. Funding, Ltd. v. Hill*, 402 So. 2d 1369, 1370 (Fla. 1st DCA 1981) (stating that “[o]bjections to a request for production can be made either because the items requested are not within the permissible scope of discovery or on any ground that would support an application for protective order under Rule 1.280(c)"); *DeBartolo-Aventura, Inc. v. Hernandez*, 638 So. 2d 988, 990 (Fla. 3d DCA 1994) (noting that “the response . . . need only set forth the objection and the reason for the objection”).

In paragraph 49 of its Motion, First Coast cites the Florida Bar Guidelines for Professional Conduct, Section H.2, and attributes the following to it: “all grounds for an

objection must be stated with specificity.” Section H.2, and the other provisions of the Florida Bar Guidelines, say nothing like that.<sup>2</sup> Paragraph 49 of the Motion also inaccurately cites *Deutsche Bank Nat. Tr. Co. v. Baker*, 199 So. 3d 967, n.2 (Fla. 4th DCA 2016). The referenced footnote in that case says that when one party proceeded to trial without first obtaining a ruling on an objection to an interrogatory made by the other party, it waived its right to subsequently do so. It says nothing about some heightened level of objection specificity, to which First Coast attempts to require of JEA, without of course holding itself to the same standard.

#### **IV. Request for Expenses Including Attorney’s Fees**

JEA requests its expenses incurred in responding to First Coast’s Motion, including attorney’s fees. Rule 1.380(a)(4), Fla. R. Civ. P., provides that if a motion to compel is denied “the court shall require the moving party to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion that may include attorneys’ fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.” First Coast’s Motion was not substantially justified. In its Motion, First Coast stated the discovery requests at issue concern JEA’s franchise, finances and provision of services yet show no connection between them or relevance to this proceeding.

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<sup>2</sup> See <https://www.floridabar.org/prof/presources/presources002/> (H.2.: “Objections to interrogatories should be based on a good faith belief and not be made for the purpose of withholding relevant information. If an interrogatory is objectionable only in part, the unobjectionable portion should be answered.”)

WHEREFORE, JEA requests that First Coast's Motion be DENIED and that JEA be awarded its expenses, including attorney's fees, incurred in responding to the Motion.

Respectfully submitted this 29th day of October, 2020.

/s/ Thomas A. Crabb  
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#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail to the following this 29th day of October, 2020.

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/s/ Thomas A. Crabb



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FIRST COAST REGIONAL UTILITIES, )  
INC. )  
\_\_\_\_\_ )

**JEA’S ANSWERS TO FIRST COAST REGIONAL UTILITIES, INC.’S  
SECOND INTERROGATORIES TO JEA  
(INTERROGATORIES 10-52)**

JEA, pursuant to rule 1.340, Florida Rules of Civil Procedure, responds to Applicant First Coast Regional Utilities, Inc.’s Second Interrogatories to JEA as follows:

**Interrogatory 10:** Please identify each person you intend to call (whether as an expert or fact witness) in this matter by name and address and state in detail the subject matter on which each such expert or fact witness is expected to testify, the substance of the facts and opinions to which each expert is expected to testify, and a summary of the grounds for each opinion.

**Answer:** JEA’s witnesses are Joseph Orfano, Robert Zammataro, Susan West, and Julia Crawford. Regarding the subject matter, substance, and summary requested, please see their prefiled direct testimony, which was filed on June 26, 2020.

**Interrogatory 11:** Please identify each exhibit, document, or other item of tangible evidence that you expect to introduce into evidence at the final hearing in this matter.

**Answer:** JEA has not yet identified the documents it will offer into evidence, other than the exhibits to the docket entries JEA has already filed in this case, including JEA’s objection filed on December 26, 2019, the prefiled testimony of JEA’s witnesses filed on June 26, 2020, JEA’s response to First Coast’s motion to strike and JEA’s motion for summary final order filed on

September 8, 2020, and JEA's response to First Coast's partial motion for summary final order filed on September 22, 2020.

**Interrogatory 12:** Does the JEA make any regular such as monthly, annual, semi-annual payments to the City of Jacksonville in lieu of taxes?

**Answer:** Objection. It is vague and unknown what is meant by a payment by JEA to the City of Jacksonville "in lieu of taxes." Transfers from JEA to the City include assessments of JEA by the City and the payment of franchise fees by JEA to the City, both as provided in section 21.07 of the City Charter (attached as Exhibit E to JEA's Response to First Coast's Motion to Strike and JEA's Motion for Summary Final Order, filed on September 8, 2020).

**Interrogatory 13:** If the answer to Interrogatory #12 above is yes, please identify the basis of calculation of such payment, whether it is a percentage of gross revenue, operating expense, operating income or upon whatever such basis.

**Answer:** Please see section 21.07 of the City Charter, which details the calculations, and is incorporated herein by reference.

**Interrogatory 14:** Relative to Interrogatory #12 above, please identify if such payment in lieu of taxes, or by whatever name is utilized, calculated on water revenue?

**Answer:** Yes, in part. Please see section 21.07 of the City Charter, which details the calculations, and is incorporated herein by reference.

**Interrogatory 15:** Relative to Interrogatory #12 above, please identify if such payment in lieu of taxes, or by whatever name is utilized, calculated on wastewater revenue?

**Answer:** Yes, in part. Please see section 21.07 of the City Charter, which details the calculations, and is incorporated herein by reference.

**Interrogatory 16:** Relative to Interrogatory #12 above, please identify if such payment in lieu of taxes, or by whatever name is utilized, calculated on irrigation or reuse water revenue?

**Answer:** Yes, in part. Please see section 21.07 of the City Charter, which details the calculations, and is incorporated herein by reference.

**Interrogatory 17:** Appended to your petition in this docket, you attached the “Interlocal Agreement Regarding Franchise Fees”, dated the first day of February, 2008. Please identify if that document is currently in full force and effect?

**Answer:** Yes.

**Interrogatory 18:** Please advise as to the amount of the franchise fee collected annually from JEA water customers for the years 2017, 2018, and 2019.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 19:** Please advise as to the amount of the franchise fee collected annually from JEA wastewater customers for the years 2017, 2018, and 2019.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 20:** Please advise as to the amount of the franchise fee collected annually from JEA irrigation or reuse water customers for the years 2017, 2018, and 2019.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 21:** Please advise as to the amount of the franchise fee collected annually from JEA electric customers for the years 2017, 2018, and 2019.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 22:** As regarding Interrogatory #17 above, has either the JEA or the City of Jacksonville proposed any amendments, additions, or corrections to the Interlocal Agreement, if so, please explain. Please identify each and every such amendment, addition or correction.

**Answer:** No.

**Interrogatory 23:** There is an item on the current JEA bill entitled “Gross Receipts Tax”. Please identify what items the gross receipts tax is applicable to, the amount thereof, the statutory basis thereof, and to whom it is paid.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 24:** There is an item on the current JEA bill entitled “Public Service Tax”. Please identify what items the public service tax is applicable to, the amount thereof, the statutory basis thereof and to whom it is paid.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 25:** There is an item on the current JEA bill entitled “Florida State Sales Tax”. Please identify the percentage amount thereof.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 26:** Relative to Interrogatory #24 above, please identify as to whether or not the stated Florida State Sales Tax is calculated upon the City of Jacksonville Franchise Fee in addition to the provision of utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 27:** Relative to the subject Interlocal Agreement Regarding Franchise Fees, please identify any study, report, or analysis prepared prior to the imposition of the franchise fee on the provision of electric utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 28:** Relative to the subject Interlocal Agreement Regarding Franchise Fees, please identify any study, report, or analysis prepared prior to the imposition of the franchise fee on the provision of water utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 29:** Relative to the subject Interlocal Agreement Regarding Franchise Fees any study, please identify any report, or analysis prepared prior to the imposition of the franchise fee on the provision of sewer utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 30:** Relative to the subject Interlocal Agreement Regarding Franchise Fees please identify any study, report, or analysis prepared prior to the imposition of the franchise fee on the provision of irrigation or reuse services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 31:** Relative to Interrogatory #23 above, please identify as to whether or not the stated Public Service Tax is calculated upon the City of Jacksonville Franchise Fee, in addition to the provision of utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 32:** Relative to Interrogatory #22 above, please identify as to whether or not the stated Gross Receipt Tax is calculated upon the City of Jacksonville Franchise Fee in addition to the provision of utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 33:** Relative to Interrogatory #23 above, please identify as to whether or not the stated Public Service Tax is calculated upon the City of Jacksonville Franchise Fee in addition to the provision of utility services.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 34:** Has the City of Jacksonville entered into a revenue sharing agreement with the State of Florida or any agencies thereof, that rely upon the Franchise Fee referenced in Interrogatory #23 above?

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 35:** Has the City of Jacksonville entered into a revenue sharing agreement with the State of Florida or any agencies thereof, that rely upon the Gross Receipts Tax referenced in Interrogatory #22 above?



**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 36:** Has the City of Jacksonville entered into a revenue sharing agreement with the State of Florida or any agencies thereof, that rely upon the Public Service Tax referenced in Interrogatory #23 above?

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 37:** Has the City of Jacksonville entered into a revenue sharing agreement with the State of Florida or any agencies thereof, that rely upon the Florida State Sales Tax referenced in Interrogatory #24 above?

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 38:** Has the City of Jacksonville issued any bonds, notes, certificates of indebtedness or similar borrowing instruments wherein the Franchise Fee referenced hereinabove has been pledged as revenue source, collateral or security?

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 39:** If the answer to Interrogatory #37 is yes, please identify each such instrument, including the obligor, obligee, trustee and date of issuance.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 40:** Has the City of Jacksonville issued any bonds, notes, certificates of indebtedness or similar borrowing instruments wherein the Gross Receipts Tax referenced hereinabove has been pledged as revenue source, collateral or security?

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 41:** If the answer to Interrogatory #39 is yes, please identify each such instrument, including the obligor, obligee, trustee and date of issuance.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 42:** Has the City of Jacksonville issued any bonds, notes, certificates of indebtedness or similar borrowing instruments wherein the Public Service Tax referenced hereinabove has been pledged as revenue source, collateral or security?

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 43:** If the answer to Interrogatory #41 is yes, please identify each such instrument, including the obligor, obligee, trustee and date of issuance.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 44:** Please advise as to the percentage amount of the franchise fee being imposed on JEA customers in St. Johns County.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 45:** Please advise as to the percentage amount of the franchise fee being imposed on JEA customers in Nassau County.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 46:** Please advise as to the percentage amount of the public service tax being imposed on JEA customers in St. Johns County.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 47:** Please advise as to the percentage amount of the public service tax being imposed on JEA customers in Nassau County.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 48:** Relative to the Nocatee development project (Project) in St. Johns County, please identify when the JEA agreed to provide water, wastewater and reuse to that Project and please identify all such developer agreements, service agreements, or contracts of such nature between the developer(s) of all or any portion of such Project.

**Answer:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Interrogatory 49:** Relative to the Nocatee development in St. Johns County, was JEA witness Robert Zammataro involved in the negotiations for the provision of water, wastewater and reuse services to such Project?

**Answer:** No.

**Interrogatory 50:** Relative to the Nocatee development in St. Johns County, was JEA witness Julia Crawford involved in the negotiations for the provision of water, wastewater and reuse services to such Project?

**Answer:** No.

**Interrogatory 51:** Relative to the Nocatee development in St. Johns County, was JEA witness Susan R. West involved in the negotiations for the provision of water, wastewater and reuse services to such Project?

**Answer:** No.

**Interrogatory 52:** Relative to the Nocatee development in St. Johns County, was JEA witness Joe Orfano involved in the negotiations for the provision of water, wastewater and reuse services to such Project?

**Answer:** No.

[remainder of page left blank, signature page to follow]

JEA

Signed By: *J. E. Orfano*

Printed Name: Joseph E. Orfano

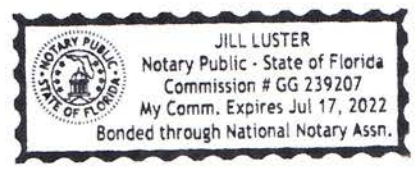
Title: Treasurer

STATE OF FLORIDA  
COUNTY OF DUVAL

BEFORE ME, the undersigned authority, personally appeared *Joseph E. Orfano*  
as a representative of JEA, who, being duly sworn, deposes and swears that the above Answers  
to Interrogatories are true and correct.

SWORN TO AND SUBSCRIBED before me on this *30<sup>TH</sup>* day of September, 2020.

*Jill Luster*  
Notary Public  
My Commission expires:



As to objections:

/s/ Thomas A. Crabb  
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**JEA’S RESPONSE TO FIRST COAST REGIONAL UTILITIES, INC.’S SECOND  
REQUEST FOR PRODUCTION OF DOCUMENTS TO JEA  
(REQUESTS 16-25)**

JEA, pursuant to rule 1.350, Florida Rules of Civil Procedure, responds to Applicant First Coast Regional Utilities, Inc.’s (“Applicant’s”) Second Request For Production Of Documents To JEA (“Second RFP”).

**GENERAL OBJECTIONS**

1. On its opening page, the Second RFP states that “[t]his request shall also be considered a public records request pursuant to Chapter 119, Florida Statutes.” Civil discovery and requests made under the Florida Public Records Act are discrete processes, each with unique rules. *See, e.g., Dept. of Prof. Reg. v. Spiva*, 478 So. 2d 382, 383 (Fla. 1st DCA 1985) (noting that “although the rules of civil procedure and the Public Records Act may overlap in certain areas, they are not coextensive in scope”). JEA objects to Applicant’s attempt to shoehorn a public records request and its attendant processes into civil discovery. If the Applicant wishes to make a public records request to JEA, it is free to do so. JEA has a portal for the submission of public records requests available at [https://www.jea.com/Contact/Public\\_Record\\_Request/](https://www.jea.com/Contact/Public_Record_Request/).

2. The Second RFP’s “Instruction” number one (1) contains a list of items that JEA is to include in any privilege log, to wit: “author, signatory, description (e.g., letter, memorandum, telex, recording, etc.), title (if any), date, addresses (if any), general subject



matter, present depository and present custodian, and a complete statement of the ground for any claim of privilege . . . .” JEA objects to this “instruction” as contrary to the Rules, which require that a privilege log contain simply a description of “the nature of the documents . . . in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.” Rule 1.280(b)(6), Fla. R. Civ. P.

3. The First RFP’s “Instruction” number two (2) states that if a document cannot be produced in full “specify[] the reasons for the inability to produce the remainder.” JEA objects to this “instruction” as it has no basis in, and exceeds JEA’s obligations under, the Rules.

**JEA’s RESPONSES TO FIRST COAST’S  
REQUESTS FOR PRODUCTION**

**Request 16:** Any and all documents identified or referenced in any way in response to the Second Set of Interrogatories which accompanied this request.

**Response:** None. All documents in JEA’s possession, custody, or control responsive to this request have been previously filed by JEA in this case or produced to First Coast in discovery.

**Request 17:** Any and all documents, including any data stored or generated by computer, that you have provided or intend to provide to any of your witnesses, prospective witnesses or potential witnesses in this case for the purpose of that witness reviewing those documents or relying upon those documents in any fashion in preparation for presenting possible testimony in this case.

**Response:** None. All documents in JEA’s possession, custody, or control responsive to this request have been previously filed by JEA in this case or produced to First Coast in discovery.

**Request 18:** Any and all documents, reports, compilations of data, exhibits, summaries, analysis and treatises which you expect to offer into evidence or rely upon at the hearing in this case.

**Response:** JEA has not yet identified the documents it will offer into evidence, other than the exhibits to the docket entries JEA has already filed in this case, including JEA's objection filed on December 26, 2019, the prefiled testimony of JEA's witnesses filed on June 26, 2020, JEA's response to First Coast's motion to strike and JEA's motion for summary final order filed on September 8, 2020, and JEA's response to First Coast's partial motion for summary final order filed on September 22, 2020.

**Request 19:** Any and all documents, exhibits, or other items of tangible evidence that you expect to introduce into evidence at the final hearing in this matter.

**Response:** Same as the response to request 18, above.

**Request 20:** Any and all documents, exhibits, or other items of tangible evidence regarding any proposed amendments, additions, or corrections to the Interlocal Agreement dated February 1, 2008 which you or the City intend to or have drafted, considered or proposed.

**Response:** JEA has no documents in its possession, custody, or control responsive to this request.

**Request 21:** Any and all documents, exhibits, or other items of tangible evidence which outlines, discloses or explains the "public service tax" and/or the statutory basis thereof.

**Response:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Request 22:** Any and all documents, exhibits, or other items of tangible evidence that discusses or explains any revenue sharing agreement between the City of Jacksonville and the State of Florida or any agencies thereof that rely upon franchise fees and/or gross receipts tax and/or public service tax paid to the City of Jacksonville by JEA.

**Response:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Request 23:** Any and all documents, exhibits, or other items of tangible evidence that discusses, explains or justifies use of franchise fees, public service tax, or gross receipts tax as pledges of revenue or collateral or security in any bonds, notes of certificates of indebtedness from the City of Jacksonville or JEA.

**Response:** Objection. JEA objects to this request as exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Request 24:** Any and all documents, exhibits, or other items of tangible evidence that establishes or discusses a nexus between the franchise fees paid by JEA to the City of

Jacksonville and a reasonable rental charge for the rental value for rights of way granted to JEA under any franchise agreement with the City of Jacksonville.

**Response:** Objection. JEA objects to this request as vague, overbroad and exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

**Request 25:** Any and all documents, exhibits, or other items of tangible evidence that establishes or discusses the relationship between JEA and the Nocatee development in St. Johns County relative to when the JEA agreed to provide water, wastewater and reuse to that Project and please identify and produce all such developer agreements, service agreements, or contracts of such nature between the developer(s) of all or any portion of such Project.

**Response:** Objection. JEA objects to this request as vague, overbroad and exceeding the scope of permissible discovery as not reasonably calculated to lead to the discovery of admissible evidence on any issue material to this proceeding.

Respectfully submitted this 30th day of September, 2020.

/s/ Thomas A. Crabb  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail to the following this 30th day of September, 2020.

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