

**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 FOR PARTIAL SUMMARY FINAL ORDER**

JEA, pursuant to rule 28-106.204, Florida Administrative Code, responds in opposition to First Coast Regional Utilities’ Motion for Partial Summary Final Order (“Motion for PSFO”).

In its Motion for PSFO, First Coast attempts to frame the issue at hand as some kind of winner-take-all jurisdictional dispute between the Commission and the City of Jacksonville, or between the Commission and JEA<sup>1</sup>, when it is simply not. This is a matter of franchise rights, not regulatory jurisdiction.

**I. The Commission’s exclusive jurisdiction does not impact JEA’s existing franchises.**

The franchises of governmental entities are equal to franchises granted by the Commission to private entities, and first in time between such entities is first in right provided there is an ability to serve. The Fifth District Court of Appeal made that clear in *JJ’s Mobile Homes* (“the franchise right of each is equal as neither is, per se, superior or inferior to the other”), 579 So. 2d at 225, and *Lake Utility Services, Inc.* (“the entity, whether governmental or private, which first acquired the legal right to provide water service to the subject area and which

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<sup>1</sup> For example: “JEA’s theory is that the PSC has no jurisdiction to proceed any further in this case,” (¶6) “the PSC’s exclusive jurisdiction is exclusive all the time regardless of what actions local government may take to attempt to circumvent or limit that exclusivity” (¶ 7) and “[c]ertification of First Coast will only be the exercise of the PSC’s exclusive and superior jurisdiction.” (¶ 16)

has the ability to do so is the entity with the exclusive legal right to do so.”) 727 So. 2d at 988. JEA is first in time and has the immediate ability to serve the development as provided by the PUD Ordinance. That is where the inquiry must end in this case. Neither the Commission nor local government has the authority to issue “superior” franchises that displace already-existing ones where there is an ability to serve.

The Commission’s jurisdiction under section 367.011, the statute on which First Coast apparently rests its entire argument, recognizes the peaceful coexistence of local government franchises and franchises issued by the Commission to private entities and is entirely consistent with *JJ’s Mobile Homes* and *Lake Utility Services, Inc.* Section 367.011(2) provides that the Commission “shall have exclusive jurisdiction over each utility with respect to its authority, service, and rates.”<sup>2</sup> JEA’s water and wastewater system is not a “utility” under this statute. *See* § 367.021(12), Fla. Stat. (“Utility” means a water or wastewater utility and, except as provided in s. 367.022, includes every person . . .”); § 367.022(2) (“Systems owned, operated, managed, or controlled by governmental authorities . . .” are “not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided”). The Commission’s jurisdiction is exclusive but only within its ambit. It does not extend to the water and wastewater systems of local governments. This is entirely consistent with the coexistence and coequality of franchises of governmental and private entities.

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<sup>2</sup> Section 367.011 was first enacted in 1971, decades before *JJ’s Mobile Homes* and *Lake Utility Services, Inc.* In *JJ’s Mobile Homes*, the Court specifically referenced the Commission’s exclusive jurisdiction under chapter 367, *see* 579 So. 2d at 223, but nonetheless held that franchises of governmental and private entities are equal, dispatching any argument by First Coast that section 367.011 confers on the Commission some kind of “superior” authority to issue franchises to private entities that displace the franchises of local government.

**II. First Coast raises no genuine issue of material fact relating to JEA’s ability to serve the development consistent with the PUD Ordinance**

In its Motion for PSFO, First Coast states that “JEA is not in a position to provide service to the territory and is unable to do so for an extended timeframe which does not work for First Coast or the development” (§ 17) and attaches an affidavit by Mr. Kennelly stating that the developer was “further advised by JEA staff that it would be a minimum of 5 years until completion of the utility facilities necessary to serve our 301 property and that timeline did not include the requisite budgeting and appropriation of necessary construction funds by the JEA.”

This statement and affidavit are completely irrelevant to the issue that matters for purposes of the pending motions -- whether JEA has the immediate ability to serve the development under the PUD Ordinance that governs the development. The PUD Ordinance requires the developer (not JEA) to construct the water and wastewater facilities for the development at the developer’s own expense and then dedicate the facilities to JEA, which are then to be operated and maintained by JEA. JEA’s “ability to serve” in this case is only the ability to provide operation and maintenance of the facilities that are required to be built by, and paid for by, the developer. First Coast raises no disputed issue of fact on whether JEA has the ability to operate and maintain the facilities that are required to be provided by the developer as a precondition to the development.

**III. There can be no First Coast under the City’s planned unit development ordinance.**

Under the City’s PUD Ordinance, there can be no First Coast Regional Utilities serving this development. The PUD Ordinance requires the developer to provide the facilities at its expense and dedicate them to JEA as the provider of water and wastewater service to the development. By filing its Application, First Coast attempts to disregard the PUD Ordinance and have the Commission abet its doing so. But nonetheless, the developer has to either comply with

the PUD Ordinance or challenge it in a court, or convince the City to change the PUD Ordinance.

The developer apparently recognizes this at paragraph 16 of its Motion for PSFO: “The legal effect of certification on the various claims of JEA may or may not be subject to test in other forums on other days.” In addition, the developer has initiated an attempt to have the PUD Ordinance revised. On August 4, 2020, the developer applied to the City to modify the PUD Ordinance to remove the requirement stated in the Ordinance that the facilities are to be built to JEA standards and then dedicated to JEA for operation and maintenance by JEA. See Exhibit A, City of Jacksonville Planning and Development Department Application Number MM-20-08.

Regardless, unless and until the PUD Ordinance is overturned or changed, there can be no First Coast. The Commission should grant JEA’s motion for summary final order and deny First Coast’s Motion for PSFO, and Application. JEA has the franchises and the ability to serve pursuant to the PUD Ordinance. Those are the only facts that matter and they are undisputed.

WHEREFORE, JEA requests that First Coast’s Motion for Partial Summary Final Order be DENIED.

Respectfully submitted this 22nd day of September, 2020.

/s/ Thomas A. Crabb  
Thomas A. Crabb  
Florida Bar No. 25846  
Susan F. Clark  
Florida Bar No. 179580  
Radey Law Firm  
301 South Bronough Street, Suite 200  
Tallahassee, FL 32301  
(850) 425-6654  
tcrabb@radeylaw.com  
sclark@radeylaw.com  
Attorneys for JEA

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail to the following this 22nd day of September, 2020.

Melinda Watts  
Bianca Lherisson  
Jennifer Crawford  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
mwatts@psc.state.fl.us  
BLheriss@psc.state.fl.us  
jcrawfor@psc.state.fl.us

Office of Public Counsel  
J.R. Kelly  
Mireille Fall-Fry  
The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399  
fall-fry.mireille@leg.state.fl.us  
Kelly.jr@leg.state.fl.us

William E. Sundstrom  
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2548 Blairstone Pines Drive  
Tallahassee, FL 32301  
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Dean Mead and Dunbar  
215 South Monroe Street, Suite 815  
Tallahassee, FL 32301  
[jwharton@deanmead.com](mailto:jwharton@deanmead.com)  
[hschack@deanmead.com](mailto:hschack@deanmead.com)

/s/ Thomas A. Crabb

## Application For Minor Modification To A PUD

### Planning and Development Department Info

**Application Number** MM-20-08 **Staff Sign-Off/Date** BEL / 08/12/2020  
**Current Land Use Category** AGR-I  
**Planning Commision Hearing Date** 09/03/2020  
**Neighborhood Association** NONE

### Application Info

**PUD# To Modify** 2010-0874-E  
**Tracking #** 3039 **Application Status** FILED COMPLETE  
**Date Started** 08/04/2020 **Date Submitted** 08/04/2020

### General Information On Applicant

**Last Name** HARDEN **First Name** PAUL **Middle Name** M.  
**Company Name** LAW OFFICE OF PAUL M. HARDEN  
**Mailing Address** 501 RIVERSIDE AVENUE, SUITE 901  
**City** JACKSONVILLE **State** FL **Zip Code** 32202  
**Phone** 9043965731 **Fax** 9043995461 **Email** PAUL\_HARDEN@BELLSOUTH.NET

### General Information On Owner(s)

Check to fill first Owner with Applicant Info

**Last Name** ROBERTS **First Name** AVERY **Middle Name**  
**Company/Trust Name** 301 CAPITAL PARTNERS, LLC  
**Mailing Address** 37 LAGOON COURSE AVE  
**City** PONTE VEDRA BEACH **State** FL **Zip Code** 32082  
**Phone** **Fax** **Email**

### Property Information

**Previous Application For Minor Modification Filed Concerning The PUD?**

**If Yes, State Application No(s)**

Map	RE#	Council District	Planning District
Map	000974 0200	12	4

Ensure that RE# is a 10 digit number with a space (##### #)

### Minor Modification Requested

MAKE ONE MODIFICATION TO THE WRITTEN DESCRIPTION AT PAGE 26.

**EXHIBIT A**

**Location Of Property****General Location**

ON THE WEST SIDE OF U.S. 301, SOUTH OF I-10

**House #**

0

**Street Name, Type and Direction**

U S 301 HWY S

**Zip Code**

32234

**Between Streets**

I-10

and

GILRIDGE RD

**Required Attachments**

The following items must be attached to application. All pages of the application must be on 8½" X 11" paper.

- Letter of authorization for agent to make application (required if request from someone other than owner).
- Legal description, including real estate number(s) of the subject property. May either be lot and block or metes and bounds.
- Adopted ordinance from original PUD Application.
- Written description indicating the reason for the modification request, the changes in the PUD application, and supporting data.
- Original and revised site plans.

**Other Attachments**

	Description
<input checked="" type="checkbox"/>	JUSTIFICATION FOR MINOR MODIFICATION

**Criteria**

Pursuant to Section 656.341 (f)(2) Zoning Code, the City Council may approve changes in the plans which comply with the following criteria:

(i) That there is no change in the approved land permitted use(s), including the amount and general location thereof and no movement or relocation of specific uses on or along the perimeter of the site, no increase in the number of dwelling units or amount of nonresidential floor area, or any associated characteristics of any use.

THERE IS NO CHANGE FROM THE APPROVED LAND USE.

(ii) Driveways and/or streets do not significantly alter the general distribution of traffic or modify the public or private rights therein. Any changes to the traffic or pedestrian circulation pattern resulting from the proposed changes in the application for minor modification to the Planned Unit Development must maintain the external compatibility requirements of Section 656.341(d). If the locations of entrances or driveways to the Planned Unit Development were the subject of staff recommendations, or were modified by submission of a revised site plan or revised written description at the time of adoption of the Planned Unit Development or any major modification thereof, no change in such locations shall be allowed by minor modification.

THERE IS NO REVISED SITE PLAN. TRAFFIC PATTERNS WILL NOT BE ALTERED DUE TO THIS MINOR MODIFICATION.

(iii) There is no change to any condition(s) set forth by the City Council in the ordinance which approved the Planned Unit Development district.

THERE ARE NO CHANGES TO ANY CONDITIONS SET FORTH IN THE ORIGINAL ORDINANCE.

(iv) That a compatible relationship between land uses within the Planned Unit Development and with land uses adjoining the Planned Unit Development district are maintained with the proposed changes in the application for minor modification to the Planned Unit Development, through the use of buffers, fencing and other landscaping requirements. External compatibility requirements of Section 656.341(d) must be maintained. If the location, width, height, material or other similar characteristics of any perimeter boundary

buffers, fencing, screening or setbacks were the subject of staff recommendations, or were modified by submission of a revised site plan or revised written description at the time of adoption of the Planned Unit Development or any major modification thereof, no change in such locations shall be allowed by minor modification.

THE MINOR MODIFICATION WILL NOT IMPACT LAND USES WITHIN THE PUD, NOR SURROUNDING LAND USES.

(v) That a compatible relationship between land uses within the Planned Unit Development and with land uses adjoining the Planned Unit Development district are maintained with the proposed changes in the application for minor modification to the Planned Unit Development, through the use of lot sizes and height of structures along the perimeter boundaries of the Planned United Development. External compatibility requirements of Section 656.341(d) must be maintained. If the lot sizes or height of any perimeter boundary buffers were the subject of staff recommendations, or were modified by submission of a revised site plan or revised written description at the time of adoption of the Planned Unit Development or any major modification thereof, no change in such locations shall be allowed by minor modification.

THERE ARE NO PROPOSED CHANGES TO THE PUDS DEVELOPMENT STANDARDS.

### Public Hearings

No application will be accepted until all the requested information has been supplied and the required fee has been paid. Acceptance of a completed application does not guarantee its approval by the City Council. The applicant will be notified of public hearing dates on this application upon the filing of the application. The applicant or authorized agent MUST BE PRESENT at the public hearings. The required SIGN(S) must be POSTED on the property BY THE APPLICANT within 5 days after the filing of an application. The sign(s) may be removed only after final action of the Council and must be removed within 10 days of such action.

The applicant must also pay for the required public notice stating the nature of the proposed request which is required to be published in an approved newspaper AT LEAST 14 DAYS IN ADVANCE OF THE PUBLIC HEARING. (The Daily Record - 10 North Newnan Street, Jacksonville, FL 32202 • (904) 356-2466 • Fax (904) 353-2628) Advertising costs are payable by the applicant directly to the newspaper and the applicant must furnish PROOF OF PUBLICATION to the Planning and Development Department, 214 North Hogan Street, Ed Ball Building, Suite 300, Jacksonville, Florida, 32202, prior to the public hearing.

### Application Certification

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND the information contained in this application, that I am the owner or authorized agent for the owner with authority to make this application, and that all of the information contained in this application, including the attachments, is true and correct to the best of my knowledge. I HEREBY APPLY FOR A MINOR MODIFICATION TO A PLANNED UNIT DEVELOPMENT, AS REQUESTED.

Agreed to and submitted

### Filing Fee Information

<b>1) Base Fee:</b>	\$1,338.00
<b>2) Plus Notification Costs Per Addressee</b>	
<b>10 Notifications @ \$7.00/each:</b>	\$70.00
<b>3) Total Application Cost:</b>	\$1,408.00



## Legal Description

A PORTION OF SECTIONS 31 AND 32, TOWNSHIP 2 SOUTH, RANGE 23 EAST, TOGETHER WITH ALL OF SECTIONS 7, 8, 9 AND 17, AND PORTIONS OF SECTIONS 3, 4, 5, 6, 10, 15, 16, 18, 19, 20 AND 21, TOWNSHIP 3 SOUTH, RANGE 23 EAST, ALL LYING IN DUVAL COUNTY, FLORIDA, ALSO BEING A PORTION OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 13262, PAGE 46 AND OFFICIAL RECORDS BOOK 13540, PAGE 344 OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

FOR A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 6, THENCE SOUTH 00°29'36" WEST, ALONG THE WESTERLY LINE OF SAID SECTION 6, A DISTANCE OF 688.85 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING, THENCE SOUTH 89°30'31" EAST, DEPARTING SAID WESTERLY LINE OF SECTION 6, A DISTANCE OF 481.03 FEET; THENCE NORTH 85°51'03" EAST, 515.22 FEET; THENCE NORTH 31°57'47" EAST, 454.05 FEET; THENCE SOUTH 81°59'01" EAST, 881.05 FEET; THENCE SOUTH 26°02'28" EAST, 1194.55 FEET; THENCE NORTH 67°29'41" EAST, 1581.33 FEET; THENCE NORTH 17°23'14" EAST, 856.58 FEET; THENCE NORTH 47°24'42" EAST, 42.60 FEET TO THE SOUTHERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 18171, PAGE 1757 OF SAID CURRENT PUBLIC RECORDS; THENCE SOUTH 89°08'52" EAST, ALONG LAST SAID LINE, 834.07 FEET; THENCE NORTH 89°59'13" EAST, CONTINUING ALONG LAST SAID LINE, 2422.64 FEET; THENCE SOUTH 19°38'06" EAST, 335.03 FEET; THENCE SOUTH 85°2'14" EAST, 751.27 FEET; THENCE SOUTH 85°42'17" EAST, 1067.02 FEET; THENCE SOUTH 85°09'34" EAST, 183.99 FEET; THENCE SOUTH 50°11'13" EAST, 1030.34 FEET; THENCE NORTH 42°01'54" EAST, 22.65 FEET; THENCE SOUTH 67°00'48" EAST, 1758.97 FEET; THENCE SOUTH 35°13'02" EAST, 806.99 FEET; THENCE NORTH 45°19'04" EAST, 1144.21 FEET; THENCE NORTH 45°07'13" EAST, 1086.13 FEET; THENCE SOUTH 39°37'31" EAST, 2053.41 FEET; THENCE SOUTH 39°41'01" EAST, 132.52 FEET; THENCE SOUTH 30°08'29" EAST, 165.96 FEET; THENCE NORTH 78°50'18" EAST, 1052.28 FEET; THENCE SOUTH 73°29'44" EAST, 651.84 FEET; THENCE SOUTH 72°34'54" EAST, 247.45 FEET; THENCE SOUTH 38°39'40" EAST, 59.29 FEET; THENCE SOUTH 67°12'08" EAST, 112.20 FEET; THENCE SOUTH 75°36'36" EAST, 141.75 FEET; THENCE SOUTH 80°10'48" EAST, 753.13 FEET TO A POINT LYING IN THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 301, A VARIABLE WIDTH RIGHT OF WAY AS CURRENTLY ESTABLISHED; THENCE SOUTHWESTERLY AND NORTHWESTERLY, ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING FOUR COURSES: COURSE 1 SOUTH 18°55'47" WEST, 5679.89 FEET; COURSE 2 SOUTH 18°56'27" WEST, 1781.26 FEET; COURSE 3 NORTH 71°02'55" WEST, 32.00 FEET; COURSE 4 SOUTH 18°57'05" WEST, 1024.91 FEET TO A POINT LYING ON THE EASTERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 10507, PAGE 1524 OF SAID CURRENT PUBLIC RECORDS; THENCE NORTH 00°30'52" EAST, DEPARTING SAID WESTERLY RIGHT OF WAY LINE AND ALONG SAID EASTERLY LINE, 459.40 FEET TO A POINT LYING ON THE NORTHERLY LINE OF SAID SECTION 15; THENCE NORTH 89°30'18" WEST, DEPARTING SAID EASTERLY LINE AND ALONG SAID NORTHERLY LINE, 105.00 FEET TO THE SOUTHEAST CORNER OF THOSE LANDS DESCRIBED AND RECORDED IN DEED BOOK 144, PAGE 318 OF SAID CURRENT PUBLIC RECORDS; THENCE NORTHERLY, WESTERLY AND SOUTHERLY ALONG THE BOUNDARY OF SAID LANDS, THE FOLLOWING THREE COURSES: COURSE 1, THENCE NORTH 01°10'37" EAST, DEPARTING SAID NORTHERLY LINE, 225.00 FEET; COURSE 2, THENCE NORTH 89°30'18" WEST, 225.00 FEET TO A POINT LYING ON THE WESTERLY LINE OF SAID SECTION 10; COURSE 3, THENCE SOUTH 01°10'37" WEST, ALONG SAID WESTERLY LINE, 225.00 FEET TO THE NORTHWEST CORNER OF SAID SECTION 15, SAID CORNER ALSO BEING THE SOUTHWEST CORNER OF SAID LANDS: THENCE SOUTH 00°30'52" WEST, ALONG THE WESTERLY LINE OF SAID SECTION 15, A DISTANCE OF 990.00 FEET TO THE SOUTHWEST CORNER OF SAID LANDS OF OFFICIAL RECORDS BOOK 10507, PAGE 1524; THENCE SOUTH 89°30'18" EAST, DEPARTING SAID WESTERLY LINE AND ALONG THE SOUTHERLY LINE OF SAID LANDS, 153.09 FEET TO A POINT ON SAID WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 301; THENCE SOUTH 18°57'05" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, 3385.74 FEET; THENCE NORTH 87°53'50" WEST, DEPARTING SAID WESTERLY RIGHT OF WAY LINE, 2395.54 FEET;

THENCE SOUTH 39°59'58" WEST, 670.23 FEET; THENCE SOUTH 16°08'27" EAST, 743.23 FEET; THENCE NORTH 86°27'44" WEST, 528.65 FEET; THENCE SOUTH 22°12'49" WEST, 575.53 FEET; THENCE SOUTH 35°22'41" EAST, 425.02 FEET; THENCE SOUTH 18°08'51" WEST, 506.15 FEET; THENCE SOUTH 43°22'47" EAST, 737.79 FEET; THENCE SOUTH 16°13'30" WEST, 209.51 FEET; THENCE SOUTH 15°20'31" WEST, 351.94 FEET; THENCE NORTH 74°55'56" WEST, 1297.70 FEET; THENCE SOUTH 24°32'55" WEST, 248.20 FEET; THENCE NORTH 58°48'37" WEST, 1692.45 FEET; THENCE NORTH 02°17'30" EAST, 95.11 FEET; THENCE NORTH 65°01'37" WEST, 523.33 FEET; THENCE NORTH 69°51'31" WEST, 1844.55 FEET; THENCE NORTH 74°19'52" WEST, 1818.60 FEET; THENCE NORTH 89°09'40" WEST, 370.30 FEET TO A POINT LYING ON THE NORTHERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 7245, PAGE 1751 OF SAID PUBLIC RECORDS; THENCE NORTHERLY, ALONG SAID NORTHERLY LINE THE FOLLOWING THREE COURSES: COURSE 1, THENCE NORTH 00°52'24" EAST, 132.30 FEET TO A POINT LYING ON THE SOUTHERLY LINE OF SAID SECTION 18; COURSE 2, THENCE NORTH 00°54'53" EAST, DEPARTING SAID SOUTHERLY LINE, 4625.67 FEET; COURSE 3, THENCE NORTH 89°40'53" WEST, 4665.74 FEET TO A POINT LYING ON THE WESTERLY LINE OF SAID SECTION 18; THENCE NORTH 00°28'49" EAST, DEPARTING SAID NORTHERLY LINE AND ALONG SAID WESTERLY LINE, 596.05 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 7; THENCE NORTH 00°29'36" EAST, ALONG THE WESTERLY LINE OF SAID SECTION 7, AND ALONG THE WESTERLY LINE OF SAID SECTION 6, A DISTANCE OF 9808.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 5254.31 ACRES, MORE OR LESS.

**EXHIBIT B**

**Agent Authorization – Limited Liability Company (LLC)**

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

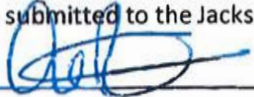
City of Jacksonville  
Planning and Development Department  
214 North Hogan Street, Suite 300,  
Jacksonville, Florida 32202

Re: Agent Authorization for the following site location in Jacksonville, Florida:

Address: 0 US 301 Hwy. S. RE#(s): 000974-0200 (portion)

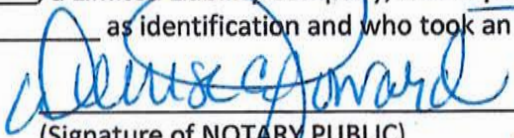
To Whom It May Concern:

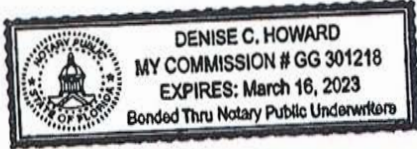
You are hereby advised that AVERY C. ROBERTS, as MANAGER of 301 CAPITAL PARTNERS, LLC, a Limited Liability Company organized under the laws of the state of FLORIDA, hereby certify that said LLC is the Owner of the property described in Exhibit 1. Said owner hereby authorizes and empowers PAUL M. HARDEN AND/OR ALEX HARDEN to act as agent to file application(s) for MINOR MODIFICATION for the above referenced property and in connection with such authorization to file such applications, papers, documents, requests and other matters necessary for such requested change as submitted to the Jacksonville Planning and Development Department.

(signature)   
(print name) AVERY C. ROBERTS

**STATE OF FLORIDA  
COUNTY OF DUVAL**

Sworn to and subscribed and acknowledged before me this 23<sup>rd</sup> day of July 2020, by AVERY C. ROBERTS, as MANAGER, of 301 CAPITAL PARTNERS, LLC, a Limited Liability Company, who is personally known to me or who has produced \_\_\_\_\_ as identification and who took an oath.

  
(Signature of NOTARY PUBLIC)  
Denise C. Howard  
(Printed name of NOTARY PUBLIC)



State of Florida at Large.  
My commission expires: 3/16/2023

**EXHIBIT B**

**Agent Authorization – Limited Liability Company (LLC)**

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

City of Jacksonville  
Planning and Development Department  
214 North Hogan Street, Suite 300,  
Jacksonville, Florida 32202

Re: Agent Authorization for the following site location in Jacksonville, Florida:

Address: 0 US 301 Hwy. S. RE#(s): 000974-0200 (portion)

To Whom It May Concern:


You are hereby advised that AVERY C. ROBERTS, as MANAGER of DUVAL DV MANAGEMENT, LLC, a Limited Liability Company organized under the laws of the state of FLORIDA, hereby certify that said LLC is the Owner of the property described in Exhibit 1. Said owner hereby authorizes and empowers PAUL M. HARDEN AND/OR ALEX HARDEN to act as agent to file application(s) for MINOR MODIFICATION for the above referenced property and in connection with such authorization to file such applications, papers, documents, requests and other matters necessary for such requested change as submitted to the Jacksonville Planning and Development Department.

(signature) 

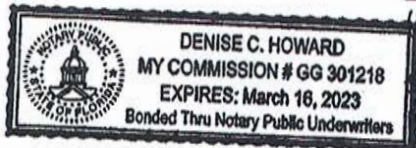
(print name) AVERY C. ROBERTS

**STATE OF FLORIDA  
COUNTY OF DUVAL**

Sworn to and subscribed and acknowledged before me this 23rd day of July 2020, by AVERY C. ROBERTS, as MANAGER of DUVAL DV MANAGEMENT, LLC, a Limited Liability Company, who is personally known to me or who has produced \_\_\_\_\_ as identification and who took an oath.

  
(Signature of NOTARY PUBLIC)

Denise C. Howard  
(Printed name of NOTARY PUBLIC)



State of Florida at Large. My commission expires: 3/16/2023

## JUSTIFICATION FOR MINOR MODIFICATION

The minor modification set forth in the written description of this minor modification meets the criteria of §656.341(f)(2) of the Zoning Code, in that there is: (1) no change in approved land uses; ii. Driveways and/or streets do not significantly alter the general distribution of traffic or modify the public or private rights therein; nor (iii) there is no change in any condition set forth by the City Council, which approved the PUD ordinance.

At page 26 of 28 of the written description (attached), with regard to matters of public infrastructure, states applicant at his expense shall provide certain infrastructure. JEA has opined and taken the position that this language requires applicant dedicate to JEA a \$30 to \$50 million facility, as an exaction for development of the land.

The language at page 26 does not require such an exaction. Indeed, such an exaction of \$50 million would be an illegal exaction to require of a landowner. An affidavit of David Haas, the individual who provided the language at Block 3 on page 26 of 28 in 2011 is attached hereto, indicating that was not his intent in providing the language sought to be removed.

The current applicant is the owner of 7,002 acres of land, which is subject to the provisions of zoning set forth in Ordinance 2010-874-E. Applicant does not wish to pay the JEA \$50 million to develop the property, and has provided to JEA an alternative. The applicant's alternative is set forth in a proposed memorandum of understanding sent to JEA prior to December 26, 2019 attached hereto.

The offer to provide the water and sewer facility at standards acceptable to JEA and allow purchase in subsequent years was as a result of the JEA announcing to the landowner that the JEA could not financially afford to provide the service at this time, and that indeed the JEA had future plans to provide water and sewer at different locations at the City, which would be contrary to the landowner's use of his land and provision of public infrastructure.

Goal one of the sanitary sewer sub element states that "JEA shall provide for economically and environmentally sound regional wastewater collection and treatment systems, which protect the health and investment in existing facilities and promote beneficial land use and growth patterns, and discourage urban sprawl". The site is currently entitled for thousands of homes and accessory services, commercial and retail. Providing service to this area would not encourage urban sprawl. It is an existing, entitled parcel. Nonetheless, the JEA takes the position, under oath, that the Comprehensive Plan "generally prohibits JEA from investing in sanitary sewer facilities at locations "such as this development". Therefore, notwithstanding their requirements to provide sanitary sewer and potable water facilities, JEA will not and states it cannot, as a matter of law, provide service to the site. (See Affidavit of Susan West dated June 26, 2020).

To comport with the development of its property, applicant has filed with the Florida Public Service Commission an application to construct a regional facility serving both the lands in the Rural Village, and lands in Baker and Nassau Counties, which cannot be served at this time by JEA, but are entitled for development. JEA has opposed the PSC application, with great vigor

and at great expense. The opposition has been going on for more than a year. JEA has taken the position in the PSC litigation that the terms of the PUD set forth in Ordinance 2010-874-E prohibits applicant from providing its own service and requires a \$50 million exaction to the JEA. Such an exaction would result in denial of applicant's property rights and unconstitutionally take the lands of applicant.

While applicant does not believe the language at page 26 of 28 requires for the \$50 million exaction, this minor modification is filed to clarify the language.

In summation, plaintiff wishes to develop its property consistent with the entitlements existing on the site at the time of applicant's purchase. JEA is thwarting illegally and unconstitutionally the rights of applicant, in an attempt to make a \$50 million grab, and otherwise take the lands of applicant. Applicant requests the minor modification in comport with the Ordinance Code of the City of Jacksonville to allow development of its property, in accordance with its constitutional rights.

## 6.0 Summary of Zoning Compliance and Minimum PUD Requirements

### 6.1 Rural Village Checklist

Requirement	ICI Villages
<i>Location Restrictions:</i> No closer than 1 mile to other Rural Villages	Nearest Rural Village is over 2 ¼ miles away
Direct Access to Arterial	Access to US 301
Include Public Infrastructure (potable water and sewer)	Applicant shall provide treatment capacity to serve the needs of the site for potable water, wastewater, and reuse, through a facility operated by a public or private entity.
<i>Size and Density:</i> Size (min 500 ac)	5,520 ac
Minimum 2 Residential Neighborhoods	Minimum 4
Village Center Required	Village Center provided
Gross Density	7.0 du/ac (single family); 15.0 du/ac (multi-family)
<i>Land Use Mix:</i>	
Minimum three land uses	<ul style="list-style-type: none"> <li>- Residential</li> <li>- Commercial Retail</li> <li>- Office</li> <li>- Public (school, fire stations, etc.)</li> </ul>
50-90% of land area for residential uses	Will comply, currently estimated at 60%
Requirement for Town Square	Provided in Village Center
Vehicles/Pedestrian/Bicycle Access	Will be provided throughout the community
Rural Village to PUD-SC	PUD-SC zoning requested
Maximum size of Neighborhood Centers: 10 ac	Will comply
Village Center Range from 20-150 ac	Will comply

**MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN FIRST COAST REGIONAL UTILITIES, INC.  
AND JEA FOR THE EVENTUAL SALE/PURCHASE  
OF WATER AND WASTEWATER UTILITY ASSETS**

The following constitutes a Memorandum of Understanding ("Memo") of the basic terms and conditions between First Coast Regional Utilities, Inc. ("First Coast") and JEA ("JEA") by which First Coast would sell and JEA would have the option to purchase the assets of First Coast at specific times in the future.

1. First Coast has advised JEA of its intention to apply to the Florida Public Service Commission ("FPSC") for certificates to operate an independent water and wastewater utility in portions of western Duval County, as well as in portions of Nassau and Baker Counties. JEA has agreed not to object to the granting of such certificates provided, however, that it has a path to the eventual acquisition of the assets constructed by First Coast in the future as reference hereinbelow.

2. It is agreed by and between the parties hereto that all of the plants, pumps, lines, wells, etc. constructed by First Coast shall meet all applicable "municipal standards" in place at the time of construction and in all cases, shall be equal to or better than the standards then applicable to JEA for its own such facilities.

3. JEA shall allow First Coast time to mature such that it will have the opportunity to construct, as required and in phases, to the extent that First Coast deems necessary and in its sole discretion, all of the water and wastewater capacity needed for the lands located within the FPSC certificated areas through buildout or at least have the majority of that capacity in place prior to its purchase of the assets of First Coast.

4. First Coast shall grant JEA a limited option to purchase the assets of First Coast upon the general terms and conditions set forth herein. The first option date for JEA to purchase the assets of First Coast is July 1, 2039, and said option to purchase shall remain open until the end of the calendar year of 2039 (the "First Option Period"). On the first, second and third anniversary thereafter, JEA shall have the right to renew its option to purchase for alike periods of six months, provided however if JEA fails to exercise its option after the first option date (July 1, 2039) and prior to the



expiration of the First Option Period (12/31/2039), First Coast is free to sell its assets to any other bona fide buyer and provided further, however, that if JEA fails to exercise its option prior to December 31, 2042, then the terms of this Memo shall be of no further force and effect

5. When and if JEA exercises its option to purchase the assets of First Coast, the purchase price will be the then fair market value of First Coast's income stream. The methodology for determining fair market value is as follows:

- (a) Determine the gross revenues that First Coast would produce utilizing JEA rates and charges, indexed forward on an annual basis.
- (b) Subtract from gross revenues assumed operation and maintenance expenses at 45% and renewal and replacement ("R&R") at 5%, meaning that 50% of gross revenues would equal anticipated annual operating expenses, including R&R. Thus, by definition, "net revenues available for debt service" would equal 50% of the anticipated gross revenues from all sources to be derived by JEA from operation of the utility system.
- (c) The "cash purchase price at closing" would then be defined as the amount of bonds to be sold by the hypothecation of the net available revenue against a 30-year AAA rated revenue bond at 110% coverage, less 3% of the gross amount of the bonds to be reserved for cost of issuance. The interest rate used in the calculation of the "cash purchase price at closing" shall be the Municipal Market Data AAA Rated scale as published on the date of such calculation.

6. This Memo reflects that First Coast will construct valuable utility plants, facilities, lines, etc. for use in the future, thus not all of First Coast's facilities will be generating revenue at the time of the sale. In order to properly compensate First Coast for that unused capacity, First Coast shall be entitled to "futures" payments as follows:

- (a) 75% of the cash connection charges paid by developers and others to JEA for the utilization of the former First Coast facilities to be paid on an annual basis on or before the 15<sup>th</sup> day of February

following the conclusion of the previous calendar year. Such futures payments shall be made until all of the plants, lines, wells and facilities constructed by First Coast are 100% used and useful in the public service.

- (b) The bonding capacity of the new customers added to the system after closing on an annual basis, paid annually for 10 years subsequent to closing, on or about the 15<sup>th</sup> day of February following the conclusion of the previous calendar year, and according to the same formula as outlined in Section 4 above involved in the determination of purchase price.

7. Nothing in this Memo shall preclude First Coast from selling its assets to the underlying Community Development District ("CDD") at such time as the CDD is willing to buy and First Coast is willing to sell, in accordance with the pricing provisions referenced hereinabove; in which case, however, nothing in this Memo shall preclude JEA from subsequently exercising its right to acquire the assets of First Coast from the CDD, as authorized by Section 190.046(5), Florida Statutes.

8. Nothing in this Memo shall preclude JEA from attempting to assert its rights to eminent domain over the First Coast facilities and nothing herein shall preclude First Coast from asserting any and all lawful defenses available to it, including lack of necessity. Further, in the event of eminent domain, nothing in this Memo shall be admissible or chargeable against either party. In short, in the event of eminent domain, the parties will treat this document as if it never existed.

Agreed to this \_\_\_\_ day of July, 2019:

Agreed to this \_\_\_ day of July, 2019:

**FIRST COAST REGIONAL  
UTILITIES, INC.**

**JEA**

By: \_\_\_\_\_  
Robert Kennelly, President

By: \_\_\_\_\_  
Aaron Zahn, Managing Director  
& Chief Executive Officer

**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. )  
\_\_\_\_\_)

**DIRECT TESTIMONY OF  
SUSAN R. WEST  
ON BEHALF OF JEA**

1 **Q. Please state your name and current employment.**

2 A. My name is Susan R. West and I am currently employed by JEA as a Consulting  
3 Engineer in the Water/Wastewater Planning and Development Group.

4  
5 **Q. Please describe your educational background and professional experience.**

6 A. I have a Bachelor of Science Degree and Master of Engineering Degree in  
7 Environmental Engineering from the University of Florida and I am licensed as a  
8 Professional Engineer. I have over 20 years engineering experience that includes experience  
9 in water and sewer design, stormwater design, project management, construction service, and  
10 land developments. My current CV is attached as Exhibit SRW-1.

11

12 **Q. What are your responsibilities at JEA?**

13 A. I am primarily responsible for water and wastewater grid planning. In that capacity I  
14 am responsible for evaluating infrastructure needs, prioritizing projects and establishing  
15 JEA's 5-year capital plan for water and wastewater projects, coordinating with other JEA  
16 departments, and working with private development representatives to determine project  
17 connection points and coordinate developer agreements.

18

19 **Q. What is the purpose of your testimony?**

20 A. The purpose of my testimony is to present information regarding the 2030  
21 Comprehensive Plan of the City of Jacksonville ("Comp Plan") and City of Jacksonville  
22 Ordinance 2010-874, which is the Planned Unit Development Ordinance ("PUD Ordinance")  
23 for the 301 Capital Partners Development ("301 Development"), to highlight provisions of  
24 the Comp Plan and PUD Ordinance that address JEA's responsibilities to provide water and  
25 wastewater service throughout Duval County and to show how the provision of service by

1 the applicant, First Coast Regional Utility (“First Coast”) would be inconsistent with the  
2 Comp Plan and contrary to the PUD Ordinance.

3

4 **Q. Are you sponsoring any exhibits?**

5 A. Yes. I sponsor the following exhibits:

6 SRW-1 Susan R. West Curriculum Vitae

7 SRW-2 City of Jacksonville Ordinance 2010-874 (“PUD Ordinance”)

8 SRW-3 Report of the Planning and Development Department for Application  
9 for Rezoning 2010 to Planned Unit Development

10 SRW-4 City of Jacksonville Comprehensive Plan Infrastructure Element

11 SRW-5 August 9, 2019 JEA Proposal to 301 Partners

12

13 **Q. Please summarize your testimony.**

14 A. The City of Jacksonville (“City” or “COJ”) passed a PUD Ordinance for this 301  
15 Development property that requires the developer to build water and wastewater facilities at  
16 its own expense and then dedicate the facilities to JEA for operation and maintenance. First  
17 Coast proposes an alternative to the PUD Ordinance service provisions by attempting to  
18 build the water and wastewater facilities and then own and operate the facilities itself, rather  
19 than dedicating them to JEA. The Application is inconsistent with the COJ Comp Plan in  
20 that JEA would not be the provider and the facilities installed would not be a regional  
21 system.

22

23 **Q. Please identify the City’s PUD Ordinance for the Development.**

24 A. The 301 Development is subject to PUD ordinance 2010-0874, approved by the City  
25 on February 1, 2011. A copy of the PUD Ordinance is provided as Exhibit SRW-2.

1

2 **Q. What requirements does the PUD Ordinance place on the Developer’s provision**  
3 **of water and wastewater service to the Development?**

4 A. The PUD Ordinance on page 26 states that the Developer “shall provide, at its  
5 expense, on-site treatment capacity to serve the needs of this Rural Village PUD for potable  
6 water, wastewater, and reuse water at levels and to standards acceptable to JEA, to be  
7 dedicated to JEA for operation and maintenance or for contract operation.” Under the PUD  
8 Ordinance, the Developer must then: 1) provide the water and wastewater facilities at the  
9 Developer’s expense, 2) build the facilities to standards acceptable to JEA, and then 3)  
10 dedicate the facilities to JEA for JEA’s operation and maintenance, or for contract  
11 operations.

12 When the PUD was being considered, the owner stated JEA would be the provider of  
13 water and wastewater service. The report of the Planning and Development Department for  
14 Application For Rezoning 2010-874 To Planned Unit Development (Jan. 27, 2011) which  
15 recommended approval of the PUD Ordinance, states that “[t]he owner is coordinating with  
16 JEA to provide water, sewer, and electric to the area.” Exh. SRW-3, p. 5. It is only recently  
17 that the Developer has deviated from the PUD Ordinance and expressed a desire to provide  
18 water and wastewater service itself.

19

20 **Q. How is First Coast’s Application for a certificate contrary to the PUD**  
21 **Ordinance?**

22 A. The Developer/Applicant First Coast desires to build the water and wastewater  
23 facilities and then own and operate the facilities itself, rather than dedicate them to JEA. The  
24 fact that dedication is a requirement of the Developer under the PUD Ordinance is further  
25 borne out by the requirement that the facilities have to be built to JEA standards.

1

2 **Q. Is the PUD Ordinance in harmony with the City’s Comprehensive Plan?**

3 A. Yes. It is in harmony with both the Sanitary Sewer and Potable Water sub-elements  
4 of the Comprehensive Plan.

5

6 **Q. How is the PUD Ordinance in harmony with the Sanitary Sewer sub-element of  
7 the Comp Plan?**

8 A. First, consistent with the exclusive franchise agreement between JEA and the COJ,  
9 this sub-element of the Comp Plan contemplates JEA as the sole provider of wastewater  
10 service. Goal 1 of the Sanitary Sewer sub-element is that “JEA shall provide for  
11 economically and environmentally sound regional wastewater collection and treatment  
12 systems which protect the public health and investment in existing facilities, promote  
13 beneficial land use and growth patterns, and discourage urban sprawl.” Exh. SRW-4, p. S2.  
14 It states that “JEA shall provide . . .” service, not that “JEA and/or other wastewater utilities  
15 shall provide . . .”

16 Second, this same Goal 1 states that the provision shall be for “regional wastewater  
17 collection and treatment systems . . .” Exh. SRW-4, p. S2. It does not contemplate small,  
18 development-specific package plants like the one proposed by the Applicant as a permanent  
19 solution.

20 Third, Policy 1.1.3 states that “The JEA shall not invest in sanitary sewer facilities in  
21 the Rural Area as defined in the Future Land Use and Capital Improvements Element, except  
22 where necessary to protect the public health or safety, or encourage mixed use or regional  
23 economic development.” Exh. SRW-4, p. S2. In Rural Areas, such as this Development, the  
24 Comp Plan generally prohibits JEA from investing in sanitary sewer facilities. The PUD  
25 Ordinance is therefore consistent with this Policy 1.1.3 by requiring the Developer to pay for

1 the wastewater treatment facilities as part of its development costs.

2

3 **Q. How then is the Application inconsistent with the Sanitary Sewer sub-element of**  
4 **the Comp Plan?**

5 A. JEA would not be the provider of wastewater service (Goal 1) and the facilities  
6 installed would not be a regional system (also in Goal 1).

7

8 **Q. How is the PUD Ordinance in harmony with the Potable Water sub-element of**  
9 **the Comp Plan?**

10 A. The Comp Plan Potable Water Goal 1 calls for regional facilities from JEA: “JEA  
11 shall regionalize water facilities in a manner which adequately corrects existing deficiencies,  
12 accommodates future growth, increases system capacity, acquires investor owned systems  
13 and incorporates private package plants into the regional system, and interconnects water  
14 systems where required while complying with all federal, State, regional and local  
15 regulations.” Exh. SRW-4, p. PW2. This language calls for JEA, not the Developer, to  
16 regionalize facilities and for the phase out of any existing private package plants.

17 Similarly, Policies 1.1.5 and 1.1.6 provide that “[n]on-regional utility water treatment  
18 facilities shall continue to be phased-out and systems intertied to regional water treatment  
19 facilities” and that “JEA shall continue to acquire community and/or investor-owned public  
20 utility companies and integrate the systems into the regional network . . . .” Exh. SRW-4, p.  
21 PW2. Both the PUD Ordinance and Comp Plan state that JEA should be the provider.

22

23 **Q. How then is the Application inconsistent with the Potable Water sub-element of**  
24 **the Comp Plan?**

25 A. JEA would not be the provider and the water treatment facility would remain



1 indefinitely as a non-regional standalone facility.

2

3 **Q. Does the Comp Plan provide any alternatives for developers in this situation?**

4 A. Yes, for water. Potable Water Policy 1.1.14 provides that “New non-regional water  
5 facilities may be allowed as appropriate interim facilities, provided the following  
6 requirements are satisfied: 1. The facility meets all federal, State, regional and city  
7 environmental regulations; 2. The developer provides for all operation and maintenance  
8 costs; 3. The developer provides for phase out costs where appropriate; 4. The developer  
9 enters into an agreement with JEA specifying the date and manner of phase out; 5. The  
10 facility operator will reimburse JEA for costs of enforcement of violations of water quality  
11 standards; and 6. Minimum fire protection levels of service as specified in Policy 1.3.1 are  
12 provided for.” Exh. SRW-4, pp. PW3-PW4.

13

14 **Q. Did JEA offer the Developer this type of alternative?**

15 A. Yes. JEA proposed the construction of an initial treatment plant at the Developer’s  
16 expense, followed by the transition to an expanded regional plant to be constructed at JEA  
17 expense when the development progressed. See Exhibit SRW-5 for the details of this  
18 proposal, which was rejected by the Developer/Applicant. In his testimony, JEA witness  
19 Robert Zammataro provides additional information regarding the alternative solutions that  
20 JEA has offered the developer.

21

22 **Q. Does this conclude your testimony?**

23 A. Yes.

24

25

## **MINOR MODIFICATION WRITTEN DESCRIPTION**

Applicant requests a single modification to the written description of the ICI Rural Villages to change language at page 26 of 28 of the written description to delete the language at block three of the ICI Rural Villages PUD requirements regarding public infrastructure to read as follows:

Applicant shall provide treatment capacity to serve the needs of the site for potable water, wastewater and reuse water, through a facility built to JEA standards.

The language currently in block three at page 26 of 28 shall be deleted. The language to be deleted is attached hereto and highlighted.

## 6.0 Summary of Zoning Compliance and Minimum PUD Requirements

### 6.1 Rural Village Checklist




Requirement	ICI Villages
<i>Location Restrictions:</i> No closer than 1 mile to other Rural Villages	Nearest Rural Village is over 2 ¼ miles away
Direct Access to Arterial	Access to US 301
Include Public Infrastructure (potable water and sewer)	The Applicant 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.
<i>Size and Density:</i> Size (min 500 ac)	5,520 ac
Minimum 2 Residential Neighborhoods	Minimum 4
Village Center Required	Village Center provided
Gross Density	7.0 du/ac (single family); 15.0 du/ac (multi-family)
<i>Land Use Mix:</i>	
Minimum three land uses	<ul style="list-style-type: none"> <li>- Residential</li> <li>- Commercial Retail</li> <li>- Office</li> <li>- Public (school, fire stations, etc.)</li> </ul>
50-90% of land area for residential uses	Will comply, currently estimated at 60%
Requirement for Town Square	Provided in Village Center
Vehicles/Pedestrian/Bicycle Access	Will be provided throughout the community
Rural Village to PUD-SC	PUD-SC zoning requested
Maximum size of Neighborhood Centers: 10 ac	Will comply
Village Center Range from 20-150 ac	Will comply

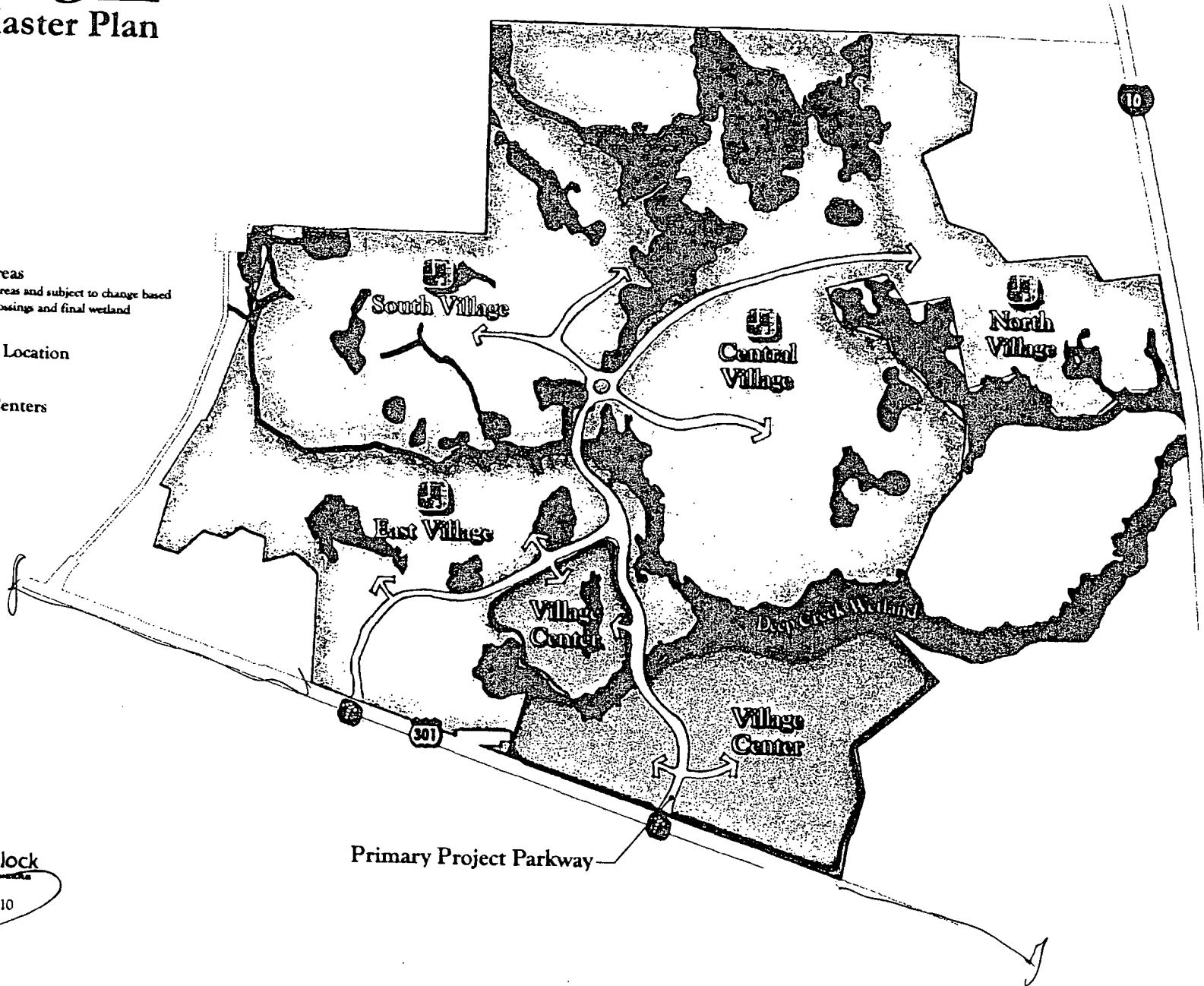
# ICI Villages

## PUD-SC Master Plan

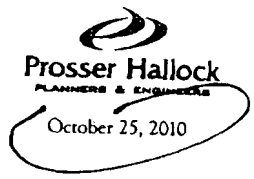
EXHIBIT E

**ICI HOMES.**

-  Conservation Areas  
(Shown as generalized areas and subject to change based on final design, road crossings and final wetland survey/permitting)
-  Proposed Access Location
-  Neighborhood Centers



REVISED EXHIBIT 2  
PAGE 28 OF 28



1 Introduced and amended by the Land Use and Zoning Committee:



4 **ORDINANCE 2010-874-E**

5 AN ORDINANCE REZONING APPROXIMATELY 5,520±  
6 ACRES LOCATED IN COUNCIL DISTRICT 11 ON THE  
7 WEST SIDE OF U. S. 301 BETWEEN INTERSTATE 10  
8 AND GILRIDGE ROAD (PORTIONS OF R.E. NO(S).  
9 000952-0000, 000974-0000, 000978-0000 AND  
10 000991-0000), AS DESCRIBED HEREIN, OWNED BY  
11 ICI VILLAGES, LLC, FROM PUD-SC (PLANNED UNIT  
12 DEVELOPMENT-SATELLITE COMMUNITY) AND AGR  
13 (AGRICULTURE) DISTRICTS TO PUD-SC (PLANNED  
14 UNIT DEVELOPMENT-SATELLITE COMMUNITY)  
15 DISTRICT, AS DEFINED AND CLASSIFIED UNDER THE  
16 ZONING CODE, TO PERMIT RESIDENTIAL COMMERCIAL  
17 BUSINESS AND OFFICE USES, AS DESCRIBED IN THE  
18 APPROVED WRITTEN DESCRIPTION AND SITE PLAN FOR  
19 THE ICI RURAL VILLAGES PUD; PROVIDING AN  
20 EFFECTIVE DATE.

21  
22 **WHEREAS**, ICI Villages, LLC, the owner(s) of approximately  
23 5,520± acres located in Council District 11 on the west side of U.  
24 S. 301 between Interstate 10 and Gilridge Road (Portions of R.E.  
25 No(s). 000952-0000, 000974-0000, 000978-0000 and 000991-0000), as  
26 more particularly described in **Exhibit 1, attached hereto** (Subject  
27 Property), has applied for a rezoning and reclassification of that  
28 property from PUD-SC (Planned Unit Development-Satellite Community)  
29 and AGR (Agriculture) Districts to PUD-SC (Planned Unit  
30 Development-Satellite Community) District, as described in Section  
31 1 below; and

1           **WHEREAS**, the Planning Commission has considered the  
2 application and has rendered an advisory opinion; and

3           **WHEREAS**, the Land Use and Zoning Committee, after due notice  
4 and public hearing, has made its recommendation to the Council; and

5           **WHEREAS**, the Council finds that such rezoning is: (1)  
6 consistent with the 2030 Comprehensive Plan; (2) furthers the  
7 goals, objectives and policies of the 2030 Comprehensive Plan; and  
8 (3) is not in conflict with any portion of the City's land use  
9 regulations; and

10           **WHEREAS**, the Council finds the proposed rezoning does not  
11 adversely affect the orderly development of the City as embodied in  
12 the Zoning Code; will not adversely affect the health and safety of  
13 residents in the area; will not be detrimental to the natural  
14 environment or to the use or development of the adjacent properties  
15 in the general neighborhood; and will accomplish the objectives and  
16 meet the standards of Section 656.340 (Planned Unit Development) of  
17 the Zoning Code; now therefore

18           **BE IT ORDAINED** by the Council of the City of Jacksonville:

19           **Section 1. Property Rezoned.** The Subject Property is  
20 hereby rezoned and reclassified from PUD-SC (Planned Unit  
21 Development-Satellite Community) and AGR (Agriculture) Districts to  
22 PUD-SC (Planned Unit Development-Satellite Community) District, as  
23 shown and described in the approved site plan dated October 25,  
24 2010 and written description dated February 1, 2011 for the ICI  
25 Rural Villages PUD. The PUD district for the Subject Property  
26 shall generally permit residential and commercial business and  
27 office uses, as more specifically shown and described in the  
28 approved site plan and written description, both **attached hereto** as  
29 **Revised Exhibit 2.**

30           **Section 2. Owner and Description.** The Subject Property  
31 is owned by ICI Villages, LLC and is legally described in **Exhibit**

1 1. The agent is Anthony S. Robbins, AICP, 13901 Sutton Park Drive  
2 South, Suite 200, Jacksonville, Florida 32224; (904) 739-3655.

3 **Section 3. Effective Date.** The adoption of this  
4 ordinance shall be deemed to constitute a quasi-judicial action of  
5 the City Council and shall become effective upon signature by the  
6 Council President and the Council Secretary.

7  
8  
9 Form Approved:

10  
11           /s/ Dylan T. Reingold          

12 Office of General Counsel

13 Legislation Prepared By Dylan T. Reingold

14 G:\SHARED\LEGIS.CC\2010\ord\PUD\2010-874-E.doc