

RESOLUTION NO. 2009- 162

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND CITY OF ST. AUGUSTINE, FLORIDA REGARDING SEWER SERVICE PROVISION, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY

WHEREAS, the CITY and the COUNTY previously entered into a Settlement and Interlocal Agreement ("First Agreement") dated August 13, 1999 attached and incorporated), which Agreement addressed the establishment of water and wastewater service territories for the CITY and which provided that the COUNTY purchase one million (1,000,000) gallons per day of potable water capacity and one million (1,000,000) gallons per day of wastewater treatment capacity from the CITY for a period of five (5) years commencing October 1, 1999 and terminating September 30, 2004; and

WHEREAS, the CITY and the COUNTY entered into a second Interlocal Agreement (attached and incorporated) dated September 23, 2004 ("Second Agreement") which amended the First Agreement by terminating the provision that the COUNTY purchase one million (1,000,000) gallons per day of potable water capacity and one million (1,000,000) gallons per day of wastewater treatment capacity and which provided that the CITY shall continue to provide water and wastewater capacity for the Eagle Creek subdivision at a rate calculated and based on the formula set forth in paragraphs 2 and 14 of the First Agreement; and

WHEREAS, the CITY and the COUNTY each acknowledge that each party has complied fully with the covenants and obligations contained in both the First Agreement and the Second Agreement; and

WHEREAS, the parties find that the provision of wastewater treatment services to certain customers of those services located in the unincorporated areas of the COUNTY but outside the CITY'S service area as described and agreed in the First Agreement and the Second Agreement best serves the public's health, safety and welfare; and

WHEREAS, the provision of wastewater force main interconnect between the St. Johns County and the City of St. Augustine sewer systems will provide redundancy to the St. Johns County sewer system;

WHEREAS, St. Johns County has reviewed the terms, and conditions of the above-referenced Interlocal Agreement attached hereto, and incorporated herein; and.

WHEREAS, the County has determined that accepting the terms of the Agreements, attached hereto, and incorporated herein, will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

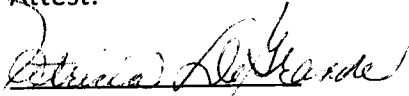
Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of Interlocal Agreement between St. Johns County and City of St. Augustine and authorizes the County Administrator to execute this Agreement and Lease on behalf of St. Johns County. To the extent that there are scrivener's/typographical, and/or administrative errors noted within the above-noted Interlocal Agreement, that do not change the tone, tenor, concept of this Interlocal Agreement, then this Interlocal Agreement may be revised, in order to correct such errors, without the necessity of further action by the Board.

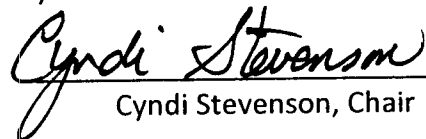
PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of June, 2009.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

Attest:


Deputy Clerk

By:


Cyndi Stevenson, Chair



"First Agreement"

SETTLEMENT AND INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into as of August 13, 1999, by and between the CITY OF ST. AUGUSTINE, a municipal corporation, organized under the laws of the State of Florida, hereinafter called "City" and ST. JOHNS COUNTY, a political subdivision of the State of Florida, hereinafter called "County".

WHEREAS, the governing bodies of the City and the County recognize the need to work cooperatively to delineate and establish water and wastewater service territories for the City and County; and

WHEREAS, the City and County recognize the importance of defined service areas for each governmental body and the long-term planning and financial considerations related thereto; and

WHEREAS, the City and County each intend to plan, construct and maintain utility facilities to provide water and wastewater services to customers within each governmental body's respective service territories; and

WHEREAS, the City and County each believe that reaching a mutually satisfactory resolution of the territorial issues raised by both parties in Case No. CA99-899, St. Johns County, Florida, a political subdivision of the State of Florida v. City of St. Augustine, Florida, is in the best interests of both parties;

NOW, THEREFORE, in consideration of the above and based on the covenants contained herein, it is agreed by and between the parties

as follows:

1.A. The City shall have the water and wastewater service territories as awarded to the City on the attached Exhibit "A".

1.B. The County shall retain the balance of the unincorporated area of the County as it exists on the date of this Agreement as the County's water and wastewater service territories.

1.C. The delineation of City and County water and wastewater service territories set forth in ^{subparagraphs} 1.A. and 1.B. ^{M.G.} notwithstanding, ^{and Exhibit A} each party may continue to provide water and wastewater services to those areas that they are serving on the effective date of this Agreement. *Sen*

2. Commencing October 1, 1999, the County will purchase 1 million gallons per day of potable water capacity and 1 million gallons per day of wastewater treatment capacity from the City at a price and in a manner more fully described in attached Exhibit "B". This capacity purchase will entitle the County to 1 million gallons per day of water and wastewater treatment from the City's entire system. However, this Agreement will not require the City to construct any additional water or sewer facilities. The potable water and wastewater treatment capacity needed for the County to provide service to Eagle Creek shall be included in this water and wastewater capacity purchase. At the request of either party, but no more than once per fiscal year, the operation and maintenance

costs of the City's water and wastewater systems shall be reviewed and adjusted to accurately reflect the actual cost of these expenses. The initial term of this wholesale purchase portion of the Agreement shall be five (5) years from the wholesale purchase commencement date stated above. On or before the fourth anniversary date of the wholesale purchase commencement date stated above, the parties shall have the option of: (i) ^{mutually agreeing to} renewing this Agreement for an additional five (5) year term or (ii) phasing out this wholesale purchase portion of the Agreement. If this wholesale purchase portion of the Agreement is to be phased out pursuant to (ii), then this wholesale purchase portion of the Agreement shall continue for two (2) additional years subsequent to the fifth anniversary date of the wholesale purchase commencement date stated above in the amount of 500,000 gallons per day at the rates set forth in Exhibit B. At the end of this two (2) year period, the wholesale purchase portion of this Agreement shall terminate with the exception of the County's ability to continue purchasing wholesale potable water and sewer treatment services for Eagle Creek in the manner described in paragraph 14 below.

*See
mutually agreeing to
MAG*

3. This Agreement will terminate in its entirety if the City has not enacted, on or before October 15, 1999, an amendment to City Ordinance 99-14 that amends the City's service area to conform to paragraph 1 above and Exhibit A attached hereto and that amends

Sections 1, 3, 4 and 5 of City Ordinance 99-14 in the manner set forth in Exhibit C attached hereto. The City will promptly initiate and continue the process necessary to bring the ordinance amendment to final hearing.

4. This Agreement will terminate in its entirety if the County has not, on or before October 15, 1999, taken the steps necessary to conform the areas described in County Ordinance 99-36 to the areas awarded to the City in this Agreement. The County will promptly initiate and continue the process necessary to bring such changes to a vote by the County's Board of County Commissioners.

5. The County will file this Agreement with the Clerk of the Court in accord with the provisions of Chapter 163, Florida Statutes.

6. The City will immediately notify Hines Interests Limited Partnership ("Hines") that the City requests Hines to immediately terminate the City-Hines Utility Service Agreement pursuant to section 3.6 therein and as an inducement therefor, the City will waive the \$5000 termination fee set forth in that section. This Settlement and Interlocal Agreement shall automatically terminate in its entirety if the Utility Service Agreement between the City and Hines is not terminated on or prior to Friday, August 20, 1999.

7. It is the intention of the City and the County that the service territories set forth in this Agreement be permanent. However, amendments to the territories set forth in paragraph 1 and Exhibit "A" may be made through the mutual agreement of the parties. In the event that no such amendments shall be made, this Agreement shall continue, indefinitely, in full force and effect. If amendments to the service territories are made in accord with this paragraph, the County shall prepare a revised map to be substituted for Exhibit "A" for submittal to the City. The City Manager and County Administrator shall be authorized to approve such map changes.

8. Upon: (i) the City's amendment of City Ordinance 99-14 in the manner set forth in paragraph 3 above, (ii) the County's modification of its Ordinance 99-36 service areas as contemplated in paragraph 4 above, and (iii) the formal cancellation or termination of the City's Utility Service Agreement, as amended, with Hines Interests Limited Partnership pertaining to Marshall Creek, the County and the City shall submit a joint motion requesting the Court to enter the order set forth in Exhibit D attached hereto.

9. Upon: (i) the City's amendment of City Ordinance 99-14 in the manner set forth in paragraph 3 above, (ii) the County's modification of its Ordinance 99-36 service areas as contemplated

in paragraph 4 above, and (iii) the formal cancellation or termination of the City's Utility Service Agreement with Hines Interests Limited Partnership pertaining to Marshall Creek, the County: (i) will dismiss its Amended Petition For Determination of Consistency, (ii) will cooperate fully with the City in a joint effort to remove the Amended Petition For Determination of Consistency from the Section 163.3213, Florida Statutes, review process and (iii) will refrain from initiating any other Section 163.3213, Florida Statutes, challenge against City Ordinance 99-14 as amended in the manner described in paragraph 3 above.

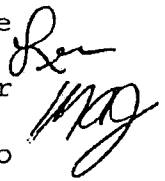
10. The County hereby acknowledges that with regard to the City's service territory identified in Ordinance 99-14, as amended in the manner described in paragraph 3 above, the City has the first perfected right to provide new service to that area.

11. The City hereby acknowledges that with regard to the County's service territory identified in Ordinance 99-36, as conformed in the manner described in paragraph 4 above, the County has the first perfected right to provide new service to that area.

12. This Agreement does not address or effect the County's right, if any, to contest the legality of the City's water and sewer rates, charges, unit connection fees and/or surcharges.

13. To the extent that subsequent to the effective date of this Agreement the City annexes areas in which the County is

already providing water and sewer service, the City shall have no right to provide water and sewer service to that annexed area. However, if the County is not providing water and sewer service to such annexed area at the time of annexation, the City may provide such services to such area.

14. If and when the County ceases to purchase wholesale water and sewer services from the City pursuant to paragraph 2 above, the City shall nevertheless ^{at the County's request continue to} provide sufficient wholesale potable water and sewer treatment services to the County to enable the County to provide retail water and sewer services to all consumers within the Eagle Creek subdivision. The wholesale prices shall be 65% of the respective retail prices that the County charges for its Eagle Creek customers. 

15. Consistent with the County's current ordinances, resolutions and regulations, the County will adopt and implement a policy that will notify the City of a construction permit application and advise County construction permit applicants of the availability of City water and sewer services within City service territories delineated in this Agreement and their responsibility to connect to same.

16. The effective date of this Agreement is August 13, 1999.

IN WITNESS WHEREOF, the parties hereto have set their hand and seals on the dates written below.

ATTEST:

Martha V. Postel
City Clerk

(SEAL)

ATTEST:

Juanne King
Deputy Clerk to the Board of County Commissioners of St. Johns County, Florida

CITY OF ST. AUGUSTINE

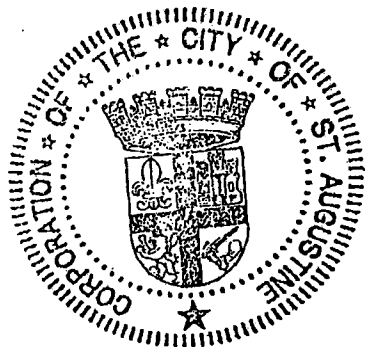
Leal Woods
Mayor-Commissioner

Date: 8/13/99

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

Mae Javalone
Chairman

Date: 8/13/99



I HEREBY CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY AS APPEARS ON RECORD IN ST. JOHNS COUNTY, FLORIDA WITNESS MY HAND AND OFFICIAL SEAL THIS 22 DAY OF October, 2004 CHERYL STRICKLAND, CLERK Ex-Officio Clerk of the Board of County Commissioners



INTERLOCAL AGREEMENT

BY: Alicia D. DeSade D.C. This Agreement is made and entered into by and between the CITY OF ST. AUGUSTINE, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as "CITY"), and ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "COUNTY"):

WHEREAS, the parties hereto entered into a Settlement and Interlocal Agreement (hereinafter referred to as "Agreement") dated August 13, 1999, relating to the establishment of water and wastewater service territories for CITY and providing for COUNTY to purchase one million (1,000,000) gallons per day of potable water capacity and one million (1,000,000) gallons per day of wastewater treatment capacity from CITY for a period of five (5) years, commencing October 1, 1999, and terminating September 30, 2004; and

WHEREAS, said Agreement provided that the parties would have the option of renewing the Agreement for an additional five (5) year term or phasing out the wholesale purchase portion of the Agreement; and

WHEREAS, each party is in full compliance with all covenants contained within such Agreement; and

WHEREAS, the parties mutually agree that the COUNTY will not have any further need for CITY'S water and wastewater capacity after September 30, 2004;

NOW, THEREFORE, the parties hereto agree:

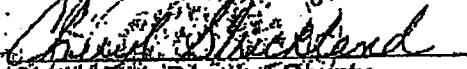
FILED
04 SEP 28 PM 4:06
CHERYL STRICKLAND
CLERK OF COUNTY COMMISSIONS
ST. JOHNS COUNTY FL

1. That the portion of Section 2 of the Agreement providing for COUNTY to purchase one million (1,000,000) gallons per day of potable water capacity and one million (1,000,000) gallons per day of wastewater treatment capacity from CITY is hereby terminated, effective September 30, 2004.

2. That the CITY shall continue to provide water and wastewater capacity for Eagle Creek subdivision, at a rate calculated based on the formula set forth in Paragraphs 2 and 14 of the Agreement.

3. That all remaining portions of said Agreement which remain to be carried out or followed by the parties hereto not amended or changed herein shall remain in full force and effect and shall remain binding on each party.

ATTEST:


 Cheryl Blackland
 Clerk of the Board of County
 Commissioners of St. Johns
 County, Florida

(SEAL)

BOARD OF COUNTY COMMISSIONERS
 OF ST. JOHNS COUNTY, FLORIDA

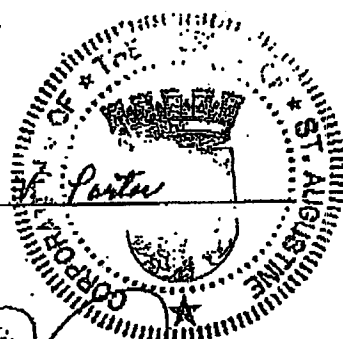
By: 
 Karen Stern, Chairperson

Date: September 23, 2004


ATTEST:


 Mercedes L. Porter
 City Clerk

(SEAL)

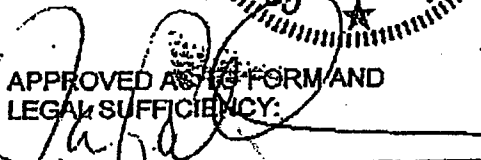


CITY OF ST. AUGUSTINE, FLORIDA,
 a municipal corporation

By: 
 George Gardner, Mayor

Date: September 13, 2004

APPROVED AS TO FORM AND
 LEGAL SUFFICIENCY:


 CITY ATTORNEY

APPROVED AS TO FORM AND
 LEGAL SUFFICIENCY:


 COUNTY ATTORNEY

INTERLOCAL AGREEMENT

This Agreement is made and entered into by and between the **CITY OF ST. AUGUSTINE, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida ("CITY"), and **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida ("COUNTY"), who hereby find as follows:

RECITALS

WHEREAS, the CITY and the COUNTY previously entered into a Settlement and Interlocal Agreement ("First Agreement") dated August 13, 1999, which Agreement addressed the establishment of water and wastewater service territories for the CITY and which provided that the COUNTY purchase one million (1,000,000) gallons per day of potable water capacity and one million (1,000,000) gallons per day of wastewater treatment capacity from the CITY for a period of five (5) years commencing October 1, 1999 and terminating September 30, 2004; and

WHEREAS, the CITY and the COUNTY entered into a second Interlocal Agreement dated September 23, 2004 ("Second Agreement") which amended the First Agreement by terminating the provision that the COUNTY purchase one million (1,000,000) gallons per day of potable water capacity and one million (1,000,000) gallons per day of wastewater treatment capacity and which provided that the CITY shall continue to provide water and wastewater capacity for the Eagle Creek subdivision at a rate calculated and based on the formula set forth in paragraphs 2 and 14 of the First Agreement; and

WHEREAS, the CITY and the COUNTY each acknowledge that each party has complied fully with the covenants and obligations contained in both the First Agreement and the Second Agreement; and

WHEREAS, the parties find that the provision of wastewater treatment services to certain customers of those services located in the unincorporated areas of the COUNTY but outside the CITY'S service area as described and agreed in the First Agreement and the Second Agreement best serves the public's health, safety and welfare; and

WHEREAS, Section 26-94 of the Code of the City of St. Augustine, Florida provides for the inclusion of certain mandatory provisions into any interlocal agreement for the receipt of wastewater by the CITY from other local governments;

NOW, THEREFORE, the CITY and COUNTY agree as follows:

Section 1. That the CITY shall provide up to and including Three Hundred Thousand (300,000) gallons per day of wastewater treatment capacity to the COUNTY for a period of three (3) years commencing on the first business day after the date of execution of this Agreement by the latter party to do so.

Section 2. That the COUNTY, at the COUNTY'S sole expense, shall connect COUNTY wastewater facilities to the current terminal of the CITY'S wastewater line located on the northerly side of State Road 16 at or near Stratton Boulevard and shall install, at the COUNTY'S sole expense, a meter for measurement of wastewater flow from the COUNTY'S facilities.

Section 3. That the wastewater received by the CITY from COUNTY facilities shall meet or exceed all federal and state standards for domestic wastewater and shall meet or exceed local limits set herein below for industrial wastewater.

Section 4. That the COUNTY will pay to the CITY for the provision of the agreed wastewater capacity a rate calculated and based on the formula set forth in paragraphs 2 and 14 of the First Agreement except that the minimum daily rate shall be the rate for 25,000 gallons and that the rate for that 25,000 gallons shall be determined in accordance with the rate formula set forth in paragraphs 2 and 14 of the First Agreement.

Section 5. That the parties acknowledge and agree that the provisions of Section 26-94 of the Code of the City of St. Augustine shall apply to and are hereby incorporated into this Interlocal Agreement:

A. The COUNTY, prior to entering this Interlocal Agreement has provided the following information to the CITY:

- (1) The COUNTY may discharge into the CITY'S Publicly Owned Treatment Works up to 300,000 gallons per day of domestic raw wastewater with a maximum peak flow of 1,050 gallons per minute.
- (2) The COUNTY shall provide to the CITY an inventory of all industrial permittees located within the COUNTY who will discharge to the CITY'S Publicly Owned Treatment Works; and

(3) Other information the City Manager deems necessary.

B. The parties acknowledge and agree that, for the purpose of this Interlocal Agreement, as hereby amended, the COUNTY has adopted or will adopt a sewer use ordinance which is at least as stringent as the CITY'S ordinance. The parties agree that for the purposes of this Interlocal Agreement, as hereby amended, the local limits shall be those displayed in Exhibit "A," attached hereto and incorporated herein.

C. The COUNTY will submit to the CITY on an annual basis a revised user inventory.

D. The COUNTY, at the COUNTY'S sole expense, shall conduct any required pretreatment implementation activities which expressly include wastewater discharge permitting, inspection, sampling and enforcement.

E. The COUNTY shall provide the CITY with access to all information and samples which the COUNTY obtains as part of its pretreatment activities. The COUNTY, upon the request of the CITY, shall provide the CITY with access to and a portion of each sample taken. The CITY reserves the right to conduct, at the CITY'S cost, its separate analysis of each such sample on an annual or as needed basis in order to assure compliance with all applicable local, state or federal requirements.

F. The COUNTY shall provide the CITY access to the facilities of users located within the COUNTY'S jurisdictional boundaries for the

purpose of inspection, sampling, and any other duties deemed necessary by the City Manager.

G. In the event of a breach of the provisions of this Interlocal Agreement, the parties may employ any legal remedies available under the law including, but not limited to, temporary and permanent injunctive relief granted by a court of competent jurisdiction located in St. Johns County, Florida.

H. The parties expressly agree that the CITY has the right to take legal action to enforce the COUNTY'S sewer ordinance or to impose and enforce CITY Publicly Owned Treatment Works pretreatment standards and requirements directly against noncompliant users in the event that the COUNTY is unable or unwilling to take such action.

Section 5. That all remaining portions of said First Agreement and Second Agreement not amended by this Interlocal Agreement shall remain in full force and effect and binding on the CITY and the COUNTY.

* * * SIGNATURES APPEAR ON THE FOLLOWING PAGE * * *

ATTEST:

Christy Strickland

Clerk of the Board of County
Commissioners of St. Johns
County, Florida

(SEAL)

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: *Cyndi Stevenson*

Cyndi Stevenson, Chair

Date: 06-08-09

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Michael J. Hill

COUNTY ATTORNEY

CITY OF ST. AUGUSTINE, FLORIDA,
a municipal corporation

ATTEST:

City Clerk

(SEAL)

By: _____
Joe Boles, Mayor

Date: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

CITY ATTORNEY

Interlocal Agreement Exhibit A

"First Agreement"

SETTLEMENT AND INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into as of August 13, 1999, by and between the CITY OF ST. AUGUSTINE, a municipal corporation, organized under the laws of the State of Florida, hereinafter called "City" and ST. JOHNS COUNTY, a political subdivision of the State of Florida, hereinafter called "County".

WHEREAS, the governing bodies of the City and the County recognize the need to work cooperatively to delineate and establish water and wastewater service territories for the City and County; and

WHEREAS, the City and County recognize the importance of defined service areas for each governmental body and the long-term planning and financial considerations related thereto; and

WHEREAS, the City and County each intend to plan, construct and maintain utility facilities to provide water and wastewater services to customers within each governmental body's respective service territories; and

WHEREAS, the City and County each believe that reaching a mutually satisfactory resolution of the territorial issues raised by both parties in Case No. CA99-899, St. Johns County, Florida, a political subdivision of the State of Florida v. City of St. Augustine, Florida, is in the best interests of both parties;

NOW, THEREFORE, in consideration of the above and based on the covenants contained herein, it is agreed by and between the parties

as follows:

1.A. The City shall have the water and wastewater service territories as awarded to the City on the attached Exhibit "A".

1.B. The County shall retain the balance of the unincorporated area of the County as it exists on the date of this Agreement as the County's water and wastewater service territories.

1.C. The delineation of City and County water and wastewater service territories set forth in ^{subparagraphs} 1.A. and 1.B. notwithstanding, ^{M.A.G.} each party may continue to provide water and wastewater services to those areas that they are serving on the effective date of this Agreement. ^{and Exhibit A} *Sen*

2. Commencing October 1, 1999, the County will purchase 1 million gallons per day of potable water capacity and 1 million gallons per day of wastewater treatment capacity from the City at a price and in a manner more fully described in attached Exhibit "B". This capacity purchase will entitle the County to 1 million gallons per day of water and wastewater treatment from the City's entire system. However, this Agreement will not require the City to construct any additional water or sewer facilities. The potable water and wastewater treatment capacity needed for the County to provide service to Eagle Creek shall be included in this water and wastewater capacity purchase. At the request of either party, but no more than once per fiscal year, the operation and maintenance

costs of the City's water and wastewater systems shall be reviewed and adjusted to accurately reflect the actual cost of these expenses. The initial term of this wholesale purchase portion of the Agreement shall be five (5) years from the wholesale purchase commencement date stated above. On or before the fourth anniversary date of the wholesale purchase commencement date stated above, the parties shall have the option of: (i) ^{mutually, agreeing to} renewing this Agreement for an additional five (5) year term or (ii) phasing out this wholesale purchase portion of the Agreement. If this wholesale purchase portion of the Agreement is to be phased out pursuant to (ii), then this wholesale purchase portion of the Agreement shall continue for two (2) additional years subsequent to the fifth anniversary date of the wholesale purchase commencement date stated above in the amount of 500,000 gallons per day at the rates set forth in Exhibit B. At the end of this two (2) year period, the wholesale purchase portion of this Agreement shall terminate with the exception of the County's ability to continue purchasing wholesale potable water and sewer treatment services for Eagle Creek in the manner described in paragraph 14 below.

3. This Agreement will terminate in its entirety if the City has not enacted, on or before October 15, 1999, an amendment to City Ordinance 99-14 that amends the City's service area to conform to paragraph 1 above and Exhibit A attached hereto and that amends

Sections 1, 3, 4 and 5 of City Ordinance 99-14 in the manner set forth in Exhibit C attached hereto. The City will promptly initiate and continue the process necessary to bring the ordinance amendment to final hearing.

4. This Agreement will terminate in its entirety if the County has not, on or before October 15, 1999, taken the steps necessary to conform the areas described in County Ordinance 99-36 to the areas awarded to the City in this Agreement. The County will promptly initiate and continue the process necessary to bring such changes to a vote by the County's Board of County Commissioners.

5. The County will file this Agreement with the Clerk of the Court in accord with the provisions of Chapter 163, Florida Statutes.

6. The City will immediately notify Hines Interests Limited Partnership ("Hines") that the City requests Hines to immediately terminate the City-Hines Utility Service Agreement pursuant to section 3.6 therein and as an inducement therefor, the City will waive the \$5000 termination fee set forth in that section. This Settlement and Interlocal Agreement shall automatically terminate in its entirety if the Utility Service Agreement between the City and Hines is not terminated on or prior to Friday, August 20, 1999.

7. It is the intention of the City and the County that the service territories set forth in this Agreement be permanent. However, amendments to the territories set forth in paragraph 1 and Exhibit "A" may be made through the mutual agreement of the parties. In the event that no such amendments shall be made, this Agreement shall continue, indefinitely, in full force and effect. If amendments to the service territories are made in accord with this paragraph, the County shall prepare a revised map to be substituted for Exhibit "A" for submittal to the City. The City Manager and County Administrator shall be authorized to approve such map changes.

8. Upon: (i) the City's amendment of City Ordinance 99-14 in the manner set forth in paragraph 3 above, (ii) the County's modification of its Ordinance 99-36 service areas as contemplated in paragraph 4 above, and (iii) the formal cancellation or termination of the City's Utility Service Agreement, as amended, with Hines Interests Limited Partnership pertaining to Marshall Creek, the County and the City shall submit a joint motion requesting the Court to enter the order set forth in Exhibit D attached hereto.

9. Upon: (i) the City's amendment of City Ordinance 99-14 in the manner set forth in paragraph 3 above, (ii) the County's modification of its Ordinance 99-36 service areas as contemplated

in paragraph 4 above, and (iii) the formal cancellation or termination of the City's Utility Service Agreement with Hines Interests Limited Partnership pertaining to Marshall Creek, the County: (i) will dismiss its Amended Petition For Determination of Consistency, (ii) will cooperate fully with the City in a joint effort to remove the Amended Petition For Determination of Consistency from the Section 163.3213, Florida Statutes, review process and (iii) will refrain from initiating any other Section 163.3213, Florida Statutes, challenge against City Ordinance 99-14 as amended in the manner described in paragraph 3 above.

10. The County hereby acknowledges that with regard to the City's service territory identified in Ordinance 99-14, as amended in the manner described in paragraph 3 above, the City has the first perfected right to provide new service to that area.

11. The City hereby acknowledges that with regard to the County's service territory identified in Ordinance 99-36, as conformed in the manner described in paragraph 4 above, the County has the first perfected right to provide new service to that area.

12. This Agreement does not address or effect the County's right, if any, to contest the legality of the City's water and sewer rates, charges, unit connection fees and/or surcharges.

13. To the extent that subsequent to the effective date of this Agreement the City annexes areas in which the County is

already providing water and sewer service, the City shall have no right to provide water and sewer service to that annexed area. However, if the County is not providing water and sewer service to such annexed area at the time of annexation, the City may provide such services to such area.

14. If and when the County ceases to purchase wholesale water and sewer services from the City pursuant to paragraph 2 above, the City shall nevertheless *at the County's request continue to* provide sufficient wholesale potable water and sewer treatment services to the County to enable the County to provide retail water and sewer services to all consumers within the Eagle Creek subdivision. The wholesale prices shall be 65% of the respective retail prices that the County charges for its Eagle Creek customers. *Ren*
MG

15. Consistent with the County's current ordinances, resolutions and regulations, the County will adopt and implement a policy that will notify the City of a construction permit application and advise County construction permit applicants of the availability of City water and sewer services within City service territories delineated in this Agreement and their responsibility to connect to same.

16. The effective date of this Agreement is August 13, 1999.

IN WITNESS WHEREOF, the parties hereto have set their hand and seals on the dates written below.

ATTEST:

CITY OF ST. AUGUSTINE

Martha V. Porter
City Clerk

Gene Wood
Mayor-Commissioner

(SEAL)

Date: 8/13/99

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

Juanne King
Deputy Clerk to the Board of County
Commissioners of St. Johns
County, Florida

Mae Javalon
Chairman
Date: 8/13/99

