



**Marion County
Board of County Commissioners**

County Attorney

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February 5, 2021

Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oaks Boulevard
Tallahassee, FL 32399-0850

Re: **Docket No. 20200238-WU**

Dear Clerk:

This letter comprises Marion County's response to the Commission's Notice of Application for Original Water Certificate of Authorization for Existing Utility Currently Charging for Water Service dated January 7, 2021, regarding *Citra Highlands Water System, LLC*, and Hash Utilities.

Marion County does not object to the applied-for Water Certificate of Authorization, subject to the following:

As described in Exhibit "H" 1) of the Application to the FPSC, the water utility was purchased from the original developer of the Mobile Home Subdivision in 2008. At least at that point, the public water system was subject to the Marion County Code of Ordinances. Sections 19-155 through 19-158 of the County Code required that a permit be obtained from the County for such a public water system. The Code provides detailed requirements for the items that must be submitted with the application for a permit, and for the review of such submittals. A copy of these Code sections is attached hereto as Exhibit "A" for your information. *Citra Highlands Water System, LLC*, never applied for, or obtained the required permit from Marion County. The Criteria for issuance of a permit set forth in Code Section 19-158 are designed to protect not only the customers of the utility, but also the environment and the public interest in general. They require engineering plans to be submitted to the County for review and approval, and that the system be constructed in accordance with such plans.

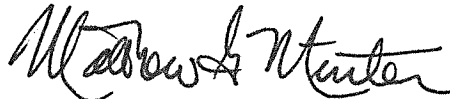
While pursuant to both Chapter 367, Florida Statutes, and Sec. 19-153 Exemptions, subsection (b), of the County Code, upon issuance of the Water Certificate of Authorization to this utility, it will be exempt from regulation by the County, Marion County is requesting that this utility obtain a permit from the County as a pre-condition of the FPSC's issuance of the Water Certificate of Authorization. This is particularly of concern to the County given the narrative of the history of this utility provided in the Application, and also because, pursuant to F.S. §367.165, Abandonment, subsection (2), there is a possibility that, in the event of a failure and abandonment of this system, the County might be in the

position of being appointed a receiver of last resort, to take over the system. That is the reason the County seeks to have the system properly reviewed and permitted at the front end of the process.

In conclusion, the County requests that *Citra Highlands Water System, LLC*, be required to obtain a permit from the County as a pre-condition to issuance of the Certificate of Authorization from the FPSC.

Should you have any technical questions about the foregoing discussion, please direct your inquiries to Marion County Director of Environmental Services, Mr. Jody Kirkman, Jody.Kirkman@marioncountyfl.org.

Sincerely,



Matthew G. Minter
County Attorney

MGM/ dt

Cc: Jody Kirkman

Attachment A.

Sec. 19-151. - Title.

This division may be cited as the "Marion County Water and Wastewater Facilities Permit Rules."

(Ord. No. 96-36, § 1, 11-5-96)

Sec. 19-152. - Definitions.

Unless specifically defined below, words, phrases or terms used in this division shall be interpreted to give this division its most reasonable application, consistent with state law and other county rules and regulations. In the event of any conflict between the definitions contained herein and those definitions contained in other county rules and regulations, the definitions contained herein shall control. The following words, phrases and terms shall have the following meanings unless the context requires otherwise:

Collection facilities shall mean the lines, pipes, meters, and appurtenant equipment and all other related equipment or facility, of whatever type or nature, used to collect sewage from sewer facilities, buildings, structures or facilities and to transmit it to wastewater transmission facilities.

Commission shall mean the Board of County Commissioners of Marion County, Florida.

County rate resolutions and ordinances shall mean all resolutions and ordinances, either currently in effect or to be adopted in the future, by the board of county commissioners, which establish fixed rates, fees and charges for the county water system and the county wastewater system.

County wastewater system shall mean all facilities and interests in real and personal property owned, operated, managed or controlled by the county, now and in the future, and used to provide sewer or wastewater service to existing and future customers within the service area of the county.

County water system shall mean all facilities and interests in real and personal property owned, operated, managed or controlled by the county, now and in the future, and used to provide water service to existing and future customers within the total service area of the county.

Director shall mean the director of the county department of public utilities or designee. The county administrator shall appoint a designee for the interim period prior to the hiring of a director. Upon hiring a director, the director shall select any such designee.

Effluent disposal facilities shall mean those wastewater facilities necessary to detain, transmit, store and dispose of wastewater previously treated at wastewater treatment facilities.

GPD shall mean gallons per day on an annual average basis.

Improvements shall mean those residential, commercial institutional, industrial, or other structures, buildings, developments, and improvements to be constructed or developed by an applicant and to be served by water or wastewater facilities regulated by these rules.

Interim wastewater facilities shall mean those wastewater facilities to be constructed and operated by a person other than the county on an interim, temporary basis until the sewage flows treated and disposed of thereby are transferred to a regional, subregional, or areawide wastewater treatment plant.

Person shall mean person as defined as F.S. § 403.031(11), or as that statute may be amended from time to time, except the county.

Rules shall mean the county water and wastewater facility permit rules, or as they may be amended from time to time.

Sewage or wastewater shall mean a combination of the water-carried wastes from residences, business buildings, institutions, industrial establishments and other customers of wastewater facilities, together with such ground, surface and storm waters as may be present.

Subregional wastewater facilities shall mean those wastewater facilities planned, designed and constructed in accordance with the county department of public utilities design criteria for subregional wastewater treatment facilities.

Utility facility agreement shall mean a written agreement between the county and an applicant which establishes the terms and conditions upon which the county will issue a utility facility permit.

Utility facility permit shall mean that permit issued by the county pursuant to this chapter.

Wastewater capital charges shall be as defined in the water and wastewater utility rate ordinance, as codified in the Marion County Code.

Wastewater facilities shall mean all wastewater collection transmission, treatment and effluent disposal facilities, whether interim or subregional, including all interceptors, lines, pipes, meters, pumps, force mains, and appurtenant equipment necessary to provide wastewater service.

Wastewater transmission facilities shall mean those lines, pipes, force mains, pumps, meters and appurtenant equipment used to transmit wastewater from the collection facilities to the headworks of the treatment facilities.

Wastewater service capacity shall mean that amount of wastewater flow allocated to a customer pursuant to those amounts paid and the rules and regulations of the county.

Water capital charges shall be as defined in the water and wastewater utility rate ordinance.

Wastewater treatment facilities shall mean those facilities used to treat and filter sewage prior to effluent disposal. Wastewater treatment facilities do not include any portions of the collection facilities, wastewater transmission facilities, or effluent disposal facilities.

Water transmission facilities shall mean those lines, pipes, force mains, pumps, meters and appurtenant equipment used to transmit and distribute potable water from the water treatment facilities to individual customers.

Water facilities shall mean any water treatment production, distribution or transmission facilities, including wells, plants, mains, pumps, meters and necessary appurtenant equipment, or any combination thereof.

Water treatment and production facilities shall mean any treatment and production facilities, including wells, plants, pumps and necessary appurtenant equipment necessary to withdraw and treat raw water in order to produce potable water.

(Ord. No. 96-36, § 3, 11-5-96)

Sec. 19-153. - Exemptions.

- (a) *Existing facilities.* Any water or wastewater facilities that have received all of the proper approvals prior to the effective date of this division, and have either been constructed, or are in the process of being constructed, as of the effective date of this division, shall be exempt from the requirements of this division. Provided however, that the expansion of any such facilities shall be subject to the requirements of this division if such facilities serve or are proposed to serve outside of FPSC certificated areas.
- (b) *Certificated areas (water).* Any water facilities used solely to serve areas which are certificated by the Florida Public Service Commission for water service shall be exempt from the requirements of this division.
- (c) *Certificated areas (wastewater).* Any wastewater facilities used solely to serve areas which are certificated by the Florida Public Service Commission for wastewater service shall be exempt from the requirements of this division.
- (d) *Scope.* Water and wastewater facilities constructed within any incorporated areas of any properly formed municipality within Marion County shall not be subject to the requirements of this division.
- (e) *Territorial agreements.* Any municipality which has entered into a territorial agreement within Marion County that specifically addresses the timing, level and manner of review of city facilities by Marion County shall be exempt from the requirements of this division, except that the proposed construction of water, wastewater, or reclaimed water transmission facilities in county rights-of-way shall not be so exempt but shall be subject to the provisions of this division.

(Ord. No. 96-36, § 4, 11-5-96)

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- (c) *Certificated areas (wastewater).* Any wastewater facilities used solely to serve areas which are certificated by the Florida Public Service Commission for wastewater service shall be exempt from the requirements of this division.
- (d) *Scope.* Water and wastewater facilities constructed within any incorporated areas of any properly formed municipality within Marion County shall not be subject to the requirements of this division.
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(Ord. No. 96-36, § 4, 11-5-96)

Sec. 19-155. - Applications.

- (a) All persons who desire to construct, reconstruct, expand, install, operate, and/or maintain a water or wastewater facility shall:
 - (1) Make application on forms as prescribed by the director; and
 - (2) Submit such information as the director may require. The director may require such person to submit any additional information reasonably necessary for proper evaluation of the application.
- (b) All applications and supporting documents shall be filed in triplicate with the director.
- (c) All applications shall be accompanied by a nonreturnable application fee in such amount as will be determined from time to time by the county as set forth by county resolution.
- (d) To insure the protection of the public health, safety and welfare, any construction, modification, or operation of water and wastewater facilities shall be in accordance with good professional engineering practices pursuant to F.S. ch. 471, as it may be amended and replaced from time to

time. Therefore, all applications and supporting engineering documents required hereby shall be certified by a professional engineer registered in the state.

(Ord. No. 96-36, § 6, 11-5-96)

Sec. 19-156. - Review of application.

- (a) When the application for permit is found deficient in any respect, or the required information has not been submitted to the director, the application shall not be accepted. The director shall notify the applicant in writing of the deficiencies or lacking information and allow a reasonable time for corrections or submittal of the necessary information.
- (b) The director shall make a recommendation to the commission with respect to:
 - (1) The disposition of the application;
 - (2) The appropriateness of any requests for waivers, exemptions, exceptions, or other relief identified by the applicant; and
 - (3) Any proposed conditions of which the director believes should be imposed.
- (c) The applicant may, within fifteen (15) days of the issuance of the recommendation, appeal the director's decision to the commission.
- (d) The commission shall hold a public hearing within sixty (60) days of receipt of a notice of appeal.
- (e) If, after review of the application and all the information and testimony at the public hearing, the commission determines that the construction, modification, expansion, or operation of the water or wastewater facility will not provide the reasonable assurances as required herein, the commission shall deny the permit.
- (f) Any person aggrieved by the issuance or denial of a water or wastewater facility permit by the commission may file a petition for writ of certiorari in the manner prescribed by law in the circuit court of the county, to review the decision of the commission.

(Ord. No. 96-36, § 7, 11-5-96)

Sec. 19-157. - Consultations.

The applicant, or his engineer, may consult with the department of public utilities concerning the planning, construction, expansion, modification or operation of any water or wastewater facilities, the efficiency of such devices or facilities, or other related problems related to such facilities. However, any representation by the department of public utilities shall not relieve any person of any requirement of applicable special acts, general laws, these rules, or any other county laws, ordinances, rules, regulations, standards or permits.

(Ord. No. 96-36, § 8, 11-5-96)

Sec. 19-158. - Criteria.

A permit may be issued to the applicant upon such conditions as the commission may direct, only if the applicant affirmatively demonstrates to the commission with reasonable assurances based upon plans, test results and other information, that the construction, expansion, modification, and operation of the water or wastewater facility will not adversely affect the public interest, violate any provision of these rules and otherwise complies with the following minimum requirements:

- (1) The water or wastewater facility complies with applicable goals, objectives, and policies contained in the county comprehensive policy plan, as amended, including, but not limited to, any comprehensive plan text amendments transmitted to the Florida Department of Community Affairs as of the effective date of this division.
- (2) The water or wastewater facility complies with the goals, objectives and all terms and provisions of the Marion County Water Resource Protection and Water and Wastewater Utilities Plan, adopted by the commission on May 21, 1996.
- (3) The applicant has prepared plans and specifications in accordance with design criteria and guidelines adopted by the commission by resolution, ordinance, and land development code from time to time.
- (4) The proposed water or wastewater facility will not negatively impact wildlife, and endanger and threaten fauna.
- (5) The proposed water or wastewater facility will not negatively impact the public and surrounding land uses.
- (6) The proposed water or wastewater facility will not negatively impact water supply facilities.
- (7) The proposed water or wastewater facility complies with zoning restrictions.
- (8) There is a sufficient level of delivery reliability, safety, integrity, and need for the water or wastewater facility.
- (9) If utilization of any public right-of-way is contemplated, the applicant has obtained a permit to utilize the right-of-way from the entity having jurisdiction over said right-of-way.
- (10) The applicant has executed a utility facilities agreement with the commission providing the following:
 - a. The applicant's responsibility to construct the water and wastewater facilities in accordance with county approved design criteria and plans and specifications.
 - b. The applicant's responsibility to operate the water and wastewater facilities in accordance with applicable local, regional, state and federal rules, regulations, laws, permits and approvals.
 - c. The applicant's responsibility to dedicate any easements determined by the director to be necessary for the adequate operation and maintenance of the water and wastewater facility.
 - d. If applicable, the applicant's responsibility to connect, at its sole expense, its water and

wastewater facility to the nearest county wastewater or water transmission line, as appropriate, with adequate transmission capacity for all such improvements; provided, however, that the distance of extension shall not exceed one mile unless by developer's agreement.

- e. If applicable, the applicant's responsibility to connect its water and wastewater facility to a regional, subregional, or area wide water or wastewater treatment plant, as appropriate, and to pay all applicable wastewater capital charges for the wastewater service capacity or water capital charges for water service capacity, as appropriate, necessary to serve such improvements in accordance with commission rate resolutions and ordinances and other applicable federal, state and county laws, rules, regulations, resolutions, ordinances, permits and requirements.
- f. The applicant's responsibility to provide operation and maintenance bonds and performance and replacement bonds or other security acceptable to the board of county commissioners in such reasonable amounts as may be determined by the commission.
- g. Proof of ownership or other legal right to use the proposed site for construction of the water and wastewater facility.
- h. Traffic control plan to be used during construction of any water and wastewater facility which crosses roads.
- i. Consent to inspection of the water and wastewater facility to ensure ongoing compliance with the permit conditions, this division, and any other applicable rules or regulations.
- j. Any other terms or conditions deemed to be reasonable by the commission.

(Ord. No. 96-36, § 9, 11-5-96)