



# CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE 10/07/08

**SUBJECT:** Daytona Beach, Port Orange, and Volusia County Tri-party Interlocal Agreement (ILA)

**DEPARTMENT:** COMMUNITY DEVELOPMENT

**RECOMMENDED MOTION:** To adopt Resolution No. 08-52, adopting the Tri-party Interlocal Agreement entered into between the City of Daytona Beach, the City of Port Orange and the County of Volusia.

**SUMMARY:** This ILA modifies the southerly boundary of the Daytona Beach Water and Sewer Service Area, as shown on Exhibit 1 of the ILA and states that each city will provide utility service to the parcels of real property that each city solely owns.

Throughout this process, all details of the agreements and plans have been closely coordinated with the Public Utilities Department, and they wholly support approval of this item.

The County is scheduled to adopt this ILA at their regularly scheduled meeting of October 2, 2008.

**ATTACHMENTS:**  Ordinance  Resolution  Budget Resolution

Other  Support Documents/Contracts Available for Review in Manager's Office

**DEPARTMENT HEAD**

Wayne Clark, AICP  
Community Development Director

*Wayne Clark* Date 9-26-08

**FINANCE DEPARTMENT** N/A

Approved as to Budget Requirements

Date

**CITY ATTORNEY** *[Signature]*

Approved as to Form and Legality

Date 7.26.08

**CITY MANAGER** *[Signature]*

Approved Agenda Item For:

10/7/08

**COUNCIL ACTION:**

Approved as Recommended

Disapproved

Tabled Indefinitely

Continued to Date Certain

Approved with Modification

RESOLUTION NO. 08-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING AN TRI-CITY INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF VOLUSIA, FLORIDA, THE CITY OF DAYTONA BEACH, FLORIDA AND THE CITY OF PORT ORANGE, FLORIDA AMENDING THE DAYTONA BEACH UTILITY SERVICE AREA LYING WEST OF INTERSTATE 95; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE THE INTERLOCAL AGREEMENT ON BEHALF OF THE CITY OF PORT ORANGE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Port Orange deems it advisable and in the best interests of the City of Port Orange and its citizens to enter into said Interlocal Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The Tri-City Interlocal Agreement between the County of Volusia, the City of Daytona Beach and the City of Port Orange, a copy of which is attached hereto as Exhibit A, is hereby approved.

Section 2. The Mayor and City Manager are hereby authorized to execute said Interlocal Agreement on behalf of the City of Port Orange.

Section 3. This resolution shall become effective immediately upon adoption.

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MAYOR ALLEN GREEN

ATTEST:

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Kenneth W. Parker, City Manager

Adopted this       day of

Reviewed and Approved:   
City Attorney

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TRI-PARTY INTERLOCAL AGREEMENT  
COUNTY OF VOLUSIA, FLORIDA  
AND  
CITY OF DAYTONA BEACH, FLORIDA  
AND  
CITY OF PORT ORANGE, FLORIDA

This Tri-Party Interlocal Agreement (hereinafter "Interlocal Agreement") is entered into the day and year set forth hereinafter and made effective as of the latest date of execution, by and between the County of Volusia, a political subdivision of the State of Florida ("Volusia County"), the City of Daytona Beach, a chartered municipal corporation ("Daytona Beach") and the City of Port Orange, a chartered municipal corporation ("Port Orange"), and collectively referred to herein as the "Parties".

WHEREAS, Volusia County and Daytona Beach entered into an Agreement (the "DBVC Agreement"), dated December 15, 1989, establishing the boundaries of a water and sewer service area in the unincorporated area of Volusia County located in the vicinity of Daytona Beach to be exclusively served now or in the future by Daytona Beach (the "Daytona Beach Water and Wastewater Service Area"); and

WHEREAS, in 1989, Port Orange adopted its Comprehensive Plan including all required elements (the "1989 Plan"); and

WHEREAS, Port Orange and Volusia County have entered into several agreements since 1989 regarding utility connections and service provided by Port Orange; and

WHEREAS, the Parties desire to modify and clarify the southerly boundary of the Daytona Beach Water and Sewer Service Area, pursuant to the authority set forth in Chapter 163, Florida Statutes, as more particularly described in this Interlocal Agreement.

NOW, THEREFORE, for good and valuable considerations given by the Parties, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto stipulate and agree as follows:

1. The foregoing recitations are true, correct, and incorporated herein by specific reference.

2. a. The DBVC Agreement is hereby amended to modify the southerly boundary of the Daytona Beach Water and Sewer Service Area, as more particularly described lying west of Tomoka Farms Road as shown on Exhibit 1, the Daytona Beach Service Area Map, dated August 29, 2008, attached hereto and made a part hereof (hereinafter the "2008 DBSA").

b. Except as modified in Section 2.a. above, all other terms, conditions and provisions of the DBVC Agreement remain valid and in full force and effect.

3. Daytona Beach and Port Orange agree that each city shall provide utility service to the parcels of real property that each city solely owns. Volusia County concurs with each city servicing its own property. Port Orange agrees that it will not provide utility service within the DBSA except upon the written mutual agreement of Daytona Beach and Port Orange.

4. This writing embodies the entire Interlocal Agreement and understanding between the Parties hereto.

5. It is agreed by and between the Parties hereto that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be construed equally applicable under another in the interpretation of this Interlocal Agreement.

6. All notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly effected on the first business day after mailing by U.S. Certified Mail, Return Receipt Requested, postage prepaid, addressed as follows:

As to Volusia County:  
County Manager  
County of Volusia  
123 West Indiana Avenue  
DeLand, Florida 32720-4613

with a copy to:  
County Attorney  
County of Volusia  
123 West Indiana Avenue  
DeLand Florida 32720-4613

and

As to Daytona Beach:  
City Manager  
The City of Daytona Beach  
P. O. Box 2451  
Daytona Beach, Florida 32115-2451

with a copy to:  
City Attorney  
The City of Daytona Beach  
P. O. Box 2451  
Daytona Beach, Florida 32115-2451

and

As to Port Orange:  
City Manager  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

with a copy to:  
City Attorney  
City of Port Orange  
1000 City Center Circle  
Port Orange, Florida 32129

7. The Parties acknowledge that they have each participated in the drafting of this Interlocal Agreement. In the event that any term of this Interlocal Agreement shall be interpreted by a court of competent jurisdiction, this Interlocal Agreement shall not be construed more or less favorably on behalf of any party hereto on the grounds that such party was or was not the drafter of this Interlocal Agreement.

8. In connection with any litigation, including appellate proceedings arising out of the terms of this Interlocal Agreement, the prevailing party shall be entitled to attorney fees and costs.

9. In the event that any term or provision of this Agreement is held to be unenforceable, the remaining portions of this Interlocal Agreement shall remain in full force and effect and the invalid term or provision shall be replaced by such valid term or provision as comes closest to the intention underlying the invalid term or provision.

10. All terms of this Interlocal Agreement, including all covenants, representations and warranties contained and made herein, shall survive the execution hereof.

IN WITNESS WHEREOF, the Parties have caused this Interlocal Agreement to be executed in counterparts by their duly authorized representatives.

COUNTY OF VOLUSIA

By: \_\_\_\_\_  
Frank T. Bruno, Jr., County Chair

Attest: \_\_\_\_\_  
James Dinneen, County Manager

Approved by: \_\_\_\_\_  
County Attorney

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Frank T. Bruno, Jr. and James Dinneen, as County Chair and County Manager, respectively, of the County of Volusia, who acknowledge that they are duly authorized to execute the foregoing Agreement on behalf of the county. They are [ ] personally known to me, or [ ] have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed, typed or stamped name, commission and Expiration of commission term:*

THE CITY OF DAYTONA BEACH,  
FLORIDA

By: \_\_\_\_\_  
Mayor Glenn Ritchey

Attest: \_\_\_\_\_  
Jennifer Thomas, City Clerk

Approved by: \_\_\_\_\_  
City Attorney

STATE OF FLORIDA  
COUNTY OF VOLUSIA

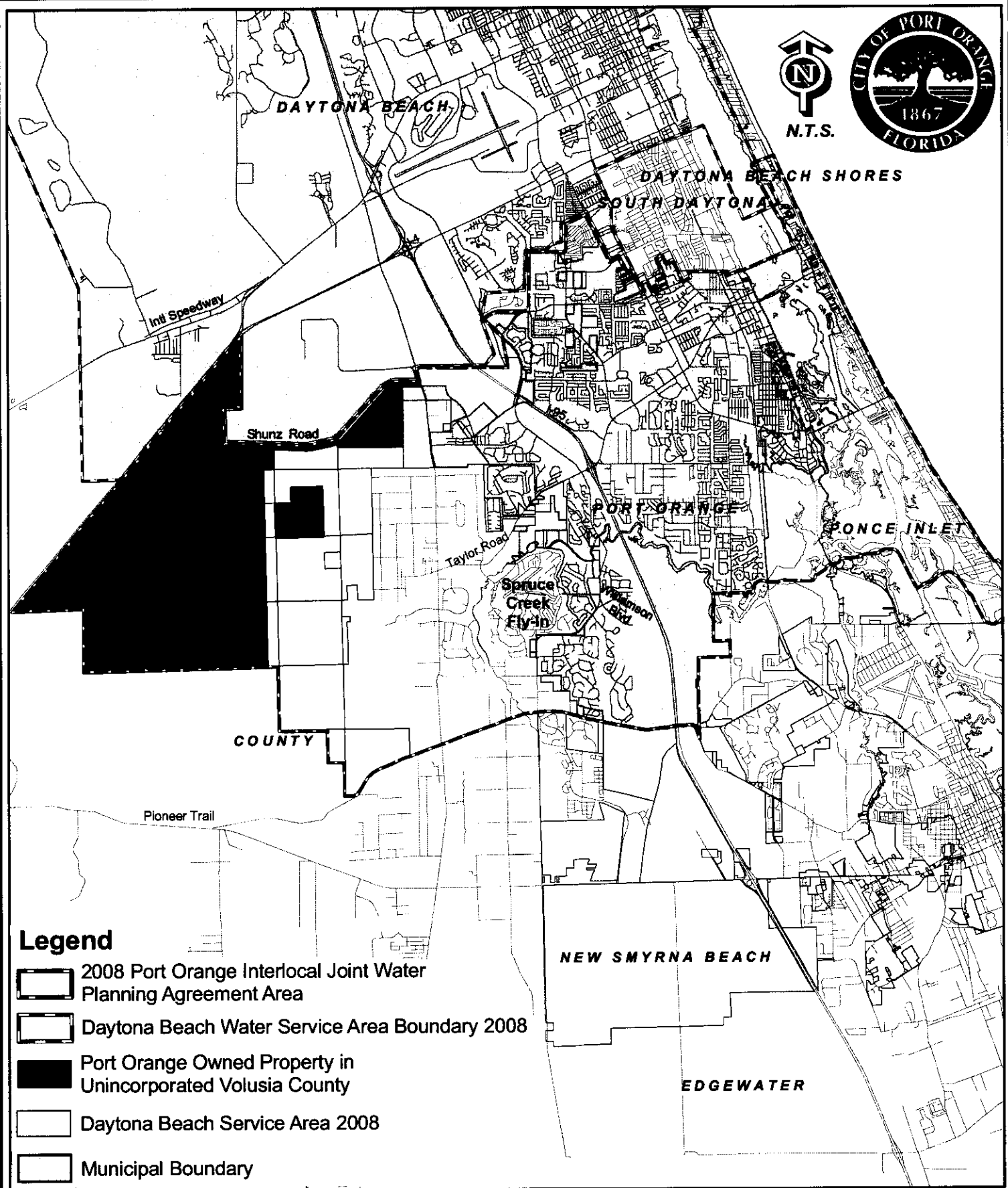
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Glenn Ritchey and Jennifer Thomas, as Mayor and City Clerk, respectively, of The City of Daytona Beach, Florida, a municipal corporation, who acknowledge that they are duly authorized to execute the foregoing Agreement on behalf of the city. They are [ ] personally known to me, or [ ] have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed, typed or stamped name, commission and Expiration  
of commission term:*





N.T.S.



### Legend

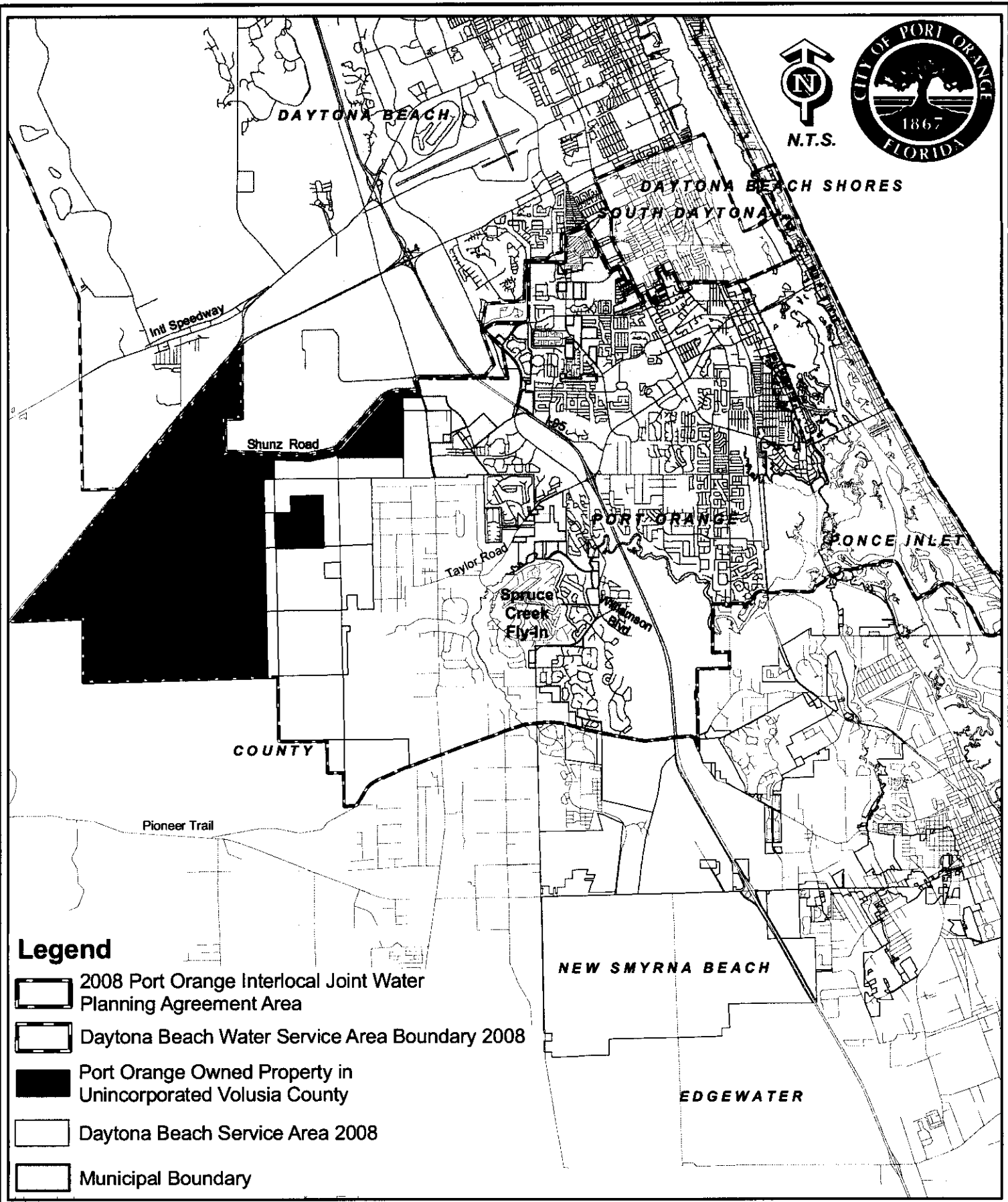
-  2008 Port Orange Interlocal Joint Water Planning Agreement Area
-  Daytona Beach Water Service Area Boundary 2008
-  Port Orange Owned Property in Unincorporated Volusia County
-  Daytona Beach Service Area 2008
-  Municipal Boundary

QUENTIN L. HAMPTON ASSOCIATES, INC.  
CONSULTING ENGINEERS






FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 626  
FAX: 386.761.3977  
P.O. DRAWER 290247 PORT ORANGE, FL 32129-0247  
PHONE: 386.761.6810

## CITY OF PORT ORANGE WATER SUPPLY FACILITIES WORK PLAN

### EXHIBIT 1



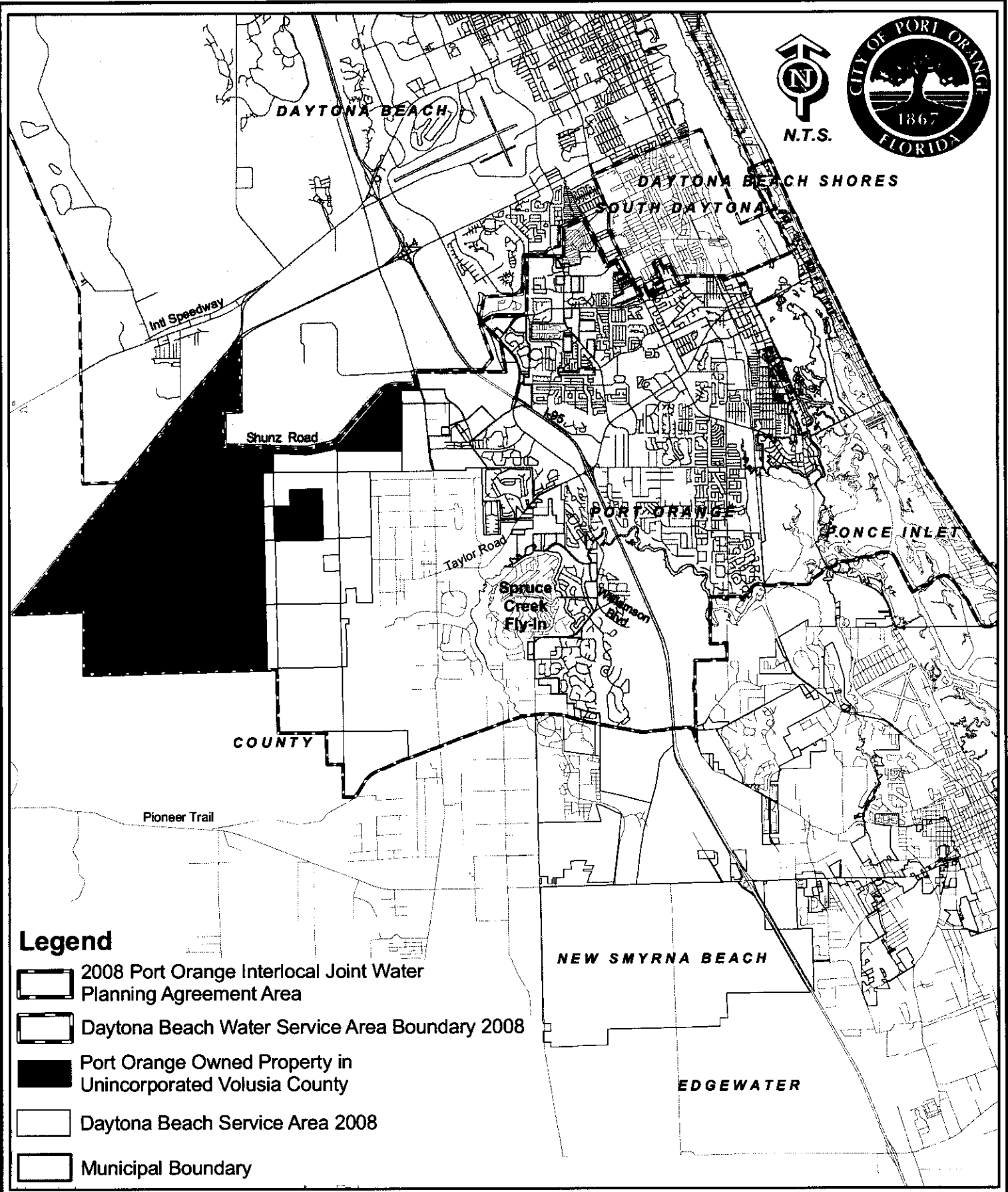
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 WATER SUPPLY FACILITIES  
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**EXHIBIT 1**



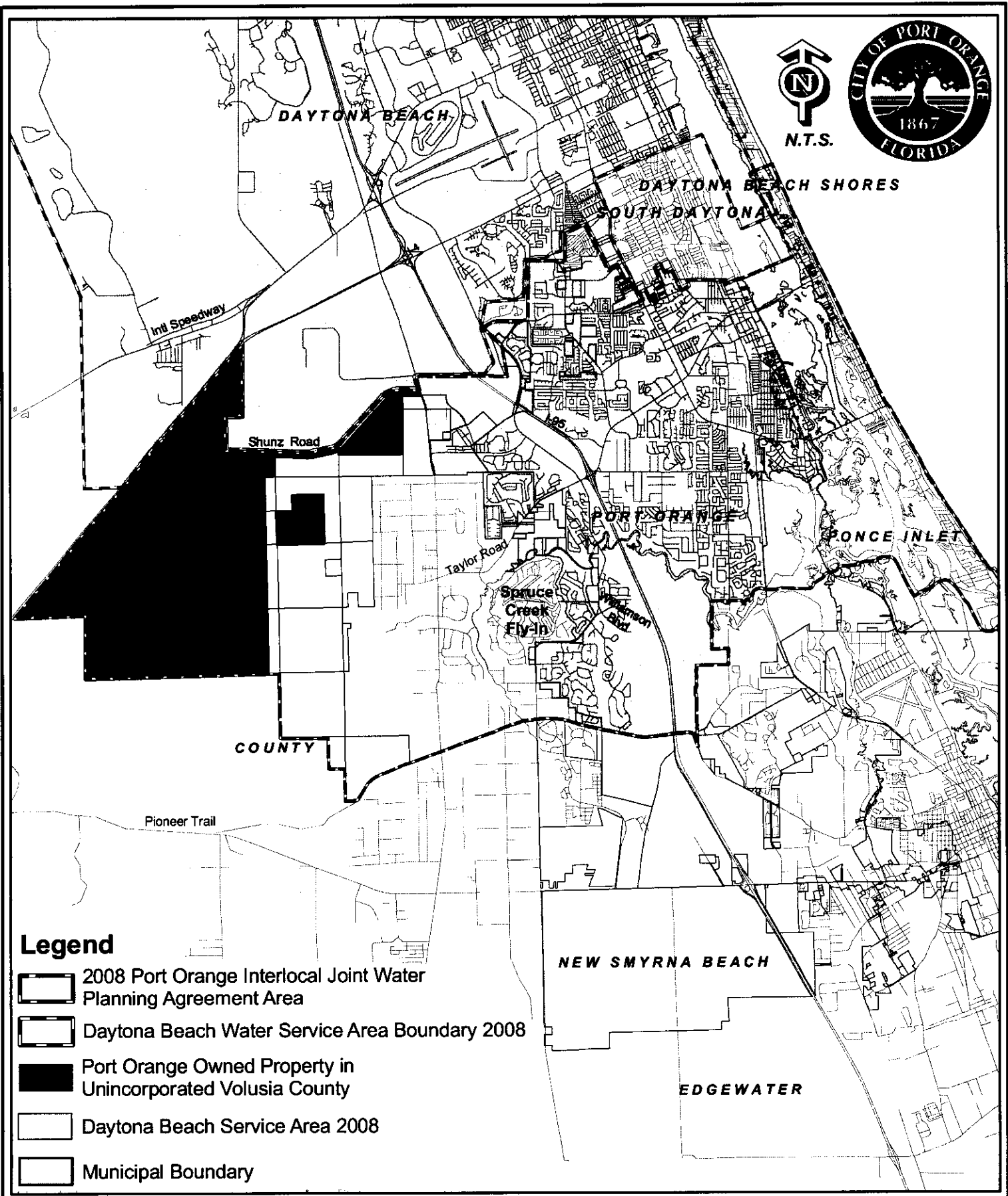
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



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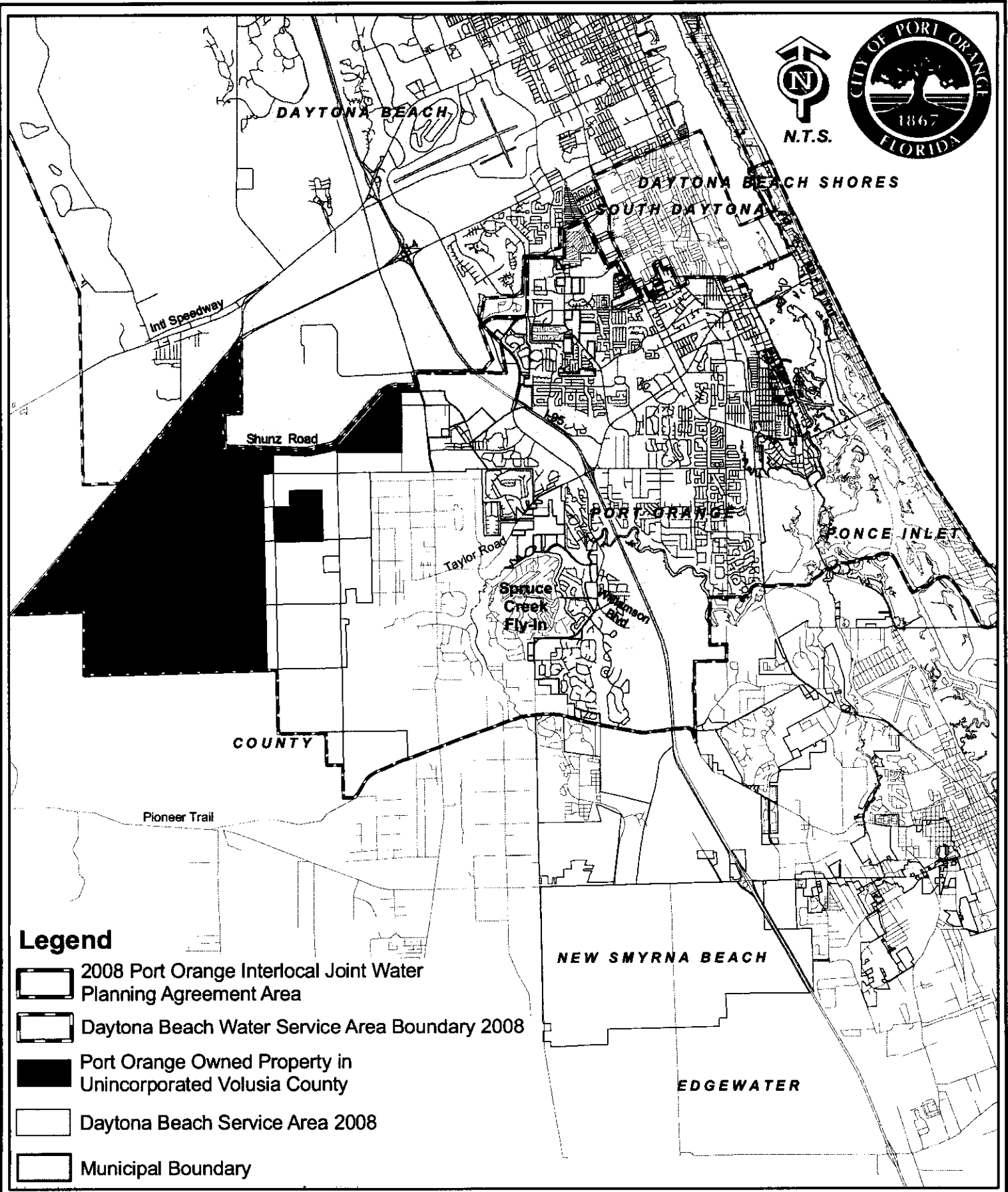
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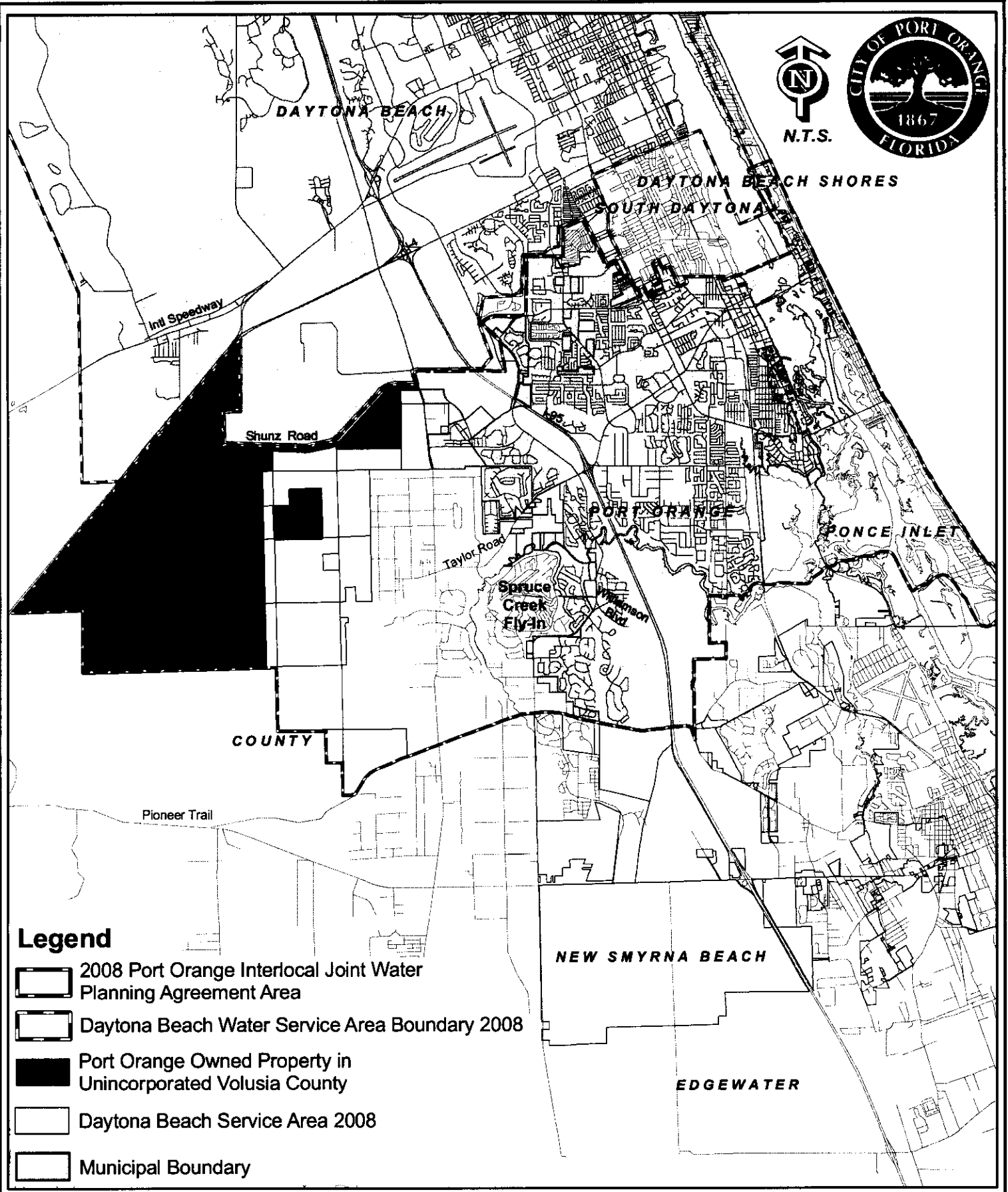
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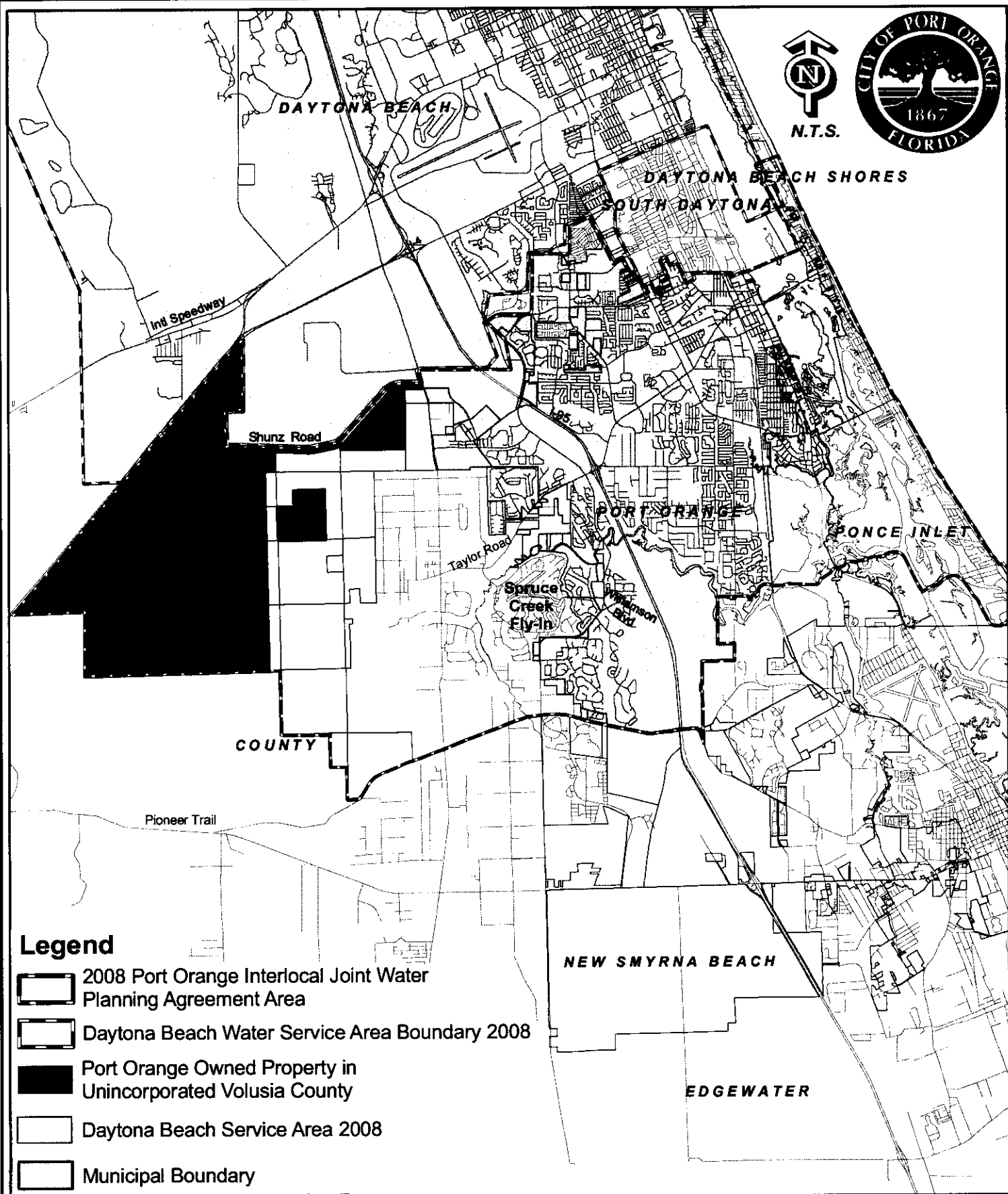


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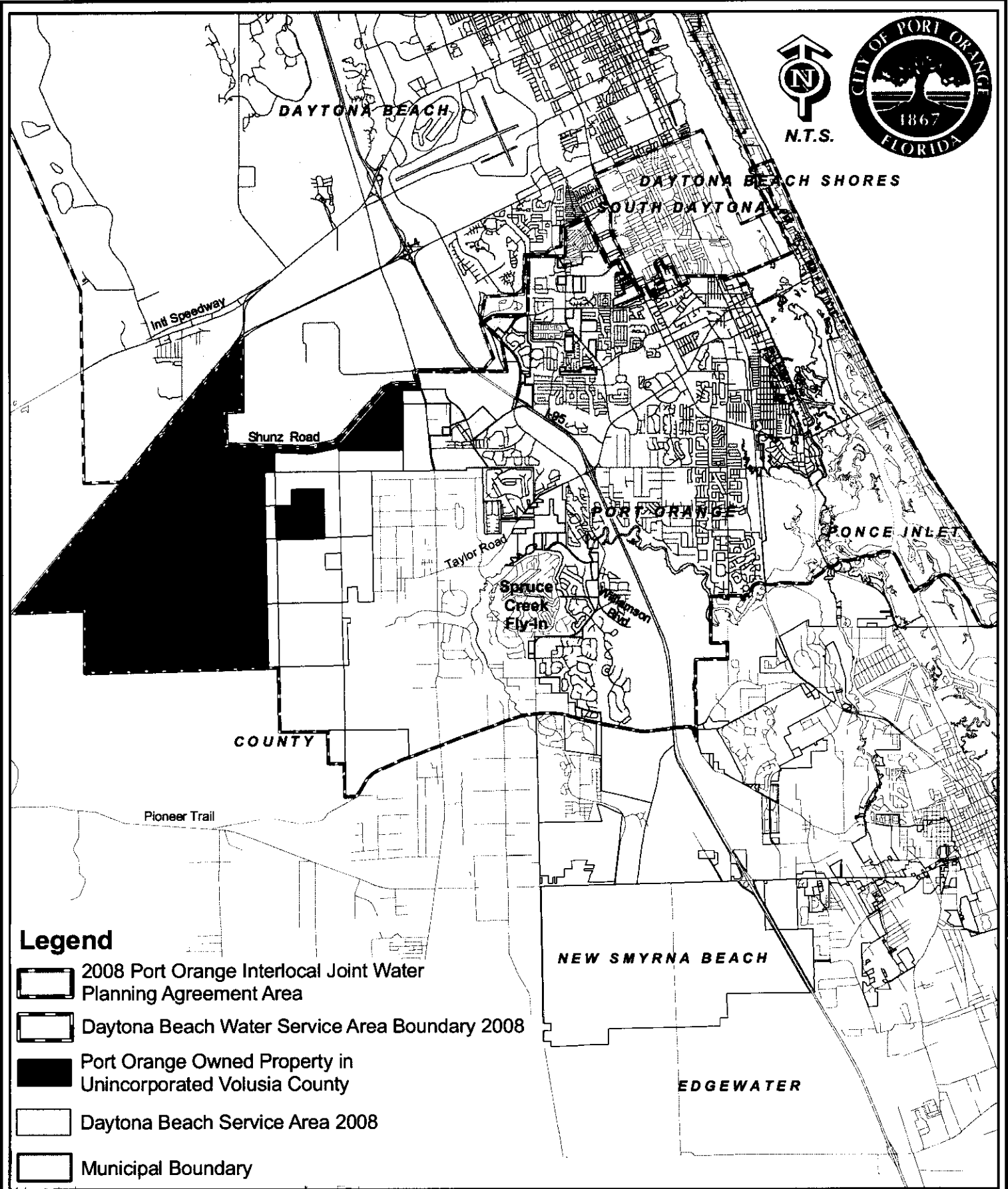
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