

PORT OF THE ISLANDS
COMMUNITY IMPROVEMENT DISTRICT



RULES OF PROCEDURE

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Rules of the Port of the Islands
Community Improvement District

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PORT OF THE ISLANDS COMMUNITY IMPROVEMENT DISTRICT

GENERAL AND PROCEDURAL RULES

Section 1 RULES OF PROCEDURE

1.1 General

(1) The Port of the Islands Community Improvement District (the "District") was created by Chapter 190, Florida Statutes and was established to provide for ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the "Rules") is to describe the general operations of the District.

(2) Definitions located within any section of the Rules shall be applicable within all other Sections, unless Specifically stated to the contrary.

Specific Authority: 190.11, 120.53(1)(a)
Law Implemented 190.11

1.2 Rules of Procedure for Meeting of the Board of Supervisors

(1) Board of Supervisors. The Board of Supervisors of the District (the "Board") shall exercise the powers granted to the District. The Board shall consist of five members. Members of the Board must be registered voters living within the boundaries of the District and citizens of the United States.

(2) Term of Officers. Board members shall hold office pursuant to Section 190.006, Florida Statutes. If, during the term of office of any Board member(s), one or more vacancies occur, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the unexpired term(s).

(3) Vacancies: Quorum. A majority of the members of the Board shall constitute quorum for the purposes of conducting its business and exercising its powers and for all other purposes. However, if three or more vacancies occur at the same time, a quorum is not necessary to fill the vacancies. Action taken by the Board shall be by majority vote of the members present, unless otherwise provided in these Rules or required by law.

(4) Officers. As soon as practicable after each election or appointment, the Board shall elect a Chairman, Vice Chairman, Treasurer and Secretary; and may appoint an Assistant Treasurer and Assistant Secretary. The Chairman shall serve a one-year term and, annually, at the first meeting of the Board in December of each year, the Board shall elect a Chairman for the ensuing calendar year.

(a) The Chairman must be a member of the Board. If the Chairman resigns from that office or ceases to be a member of the Board, the Board shall elect a Chairman to serve the remaining portion of the term, after filling the Board vacancy.

(b) The Vice Chairman shall be member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. If the Vice Chairman resigns from that office or ceases to be a member of the Board, the Board shall elect a Vice Chairman to serve the remainder of the term, after filling the Board vacancy.

(c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. The District Manager may serve as Secretary.

(d) The Treasurer need not be a member of the Board but must be a resident of Florida. The Treasurer shall perform duties described in Section 190.007(2) and (3), Florida Statutes, as well as those assigned by the Board time to time. The Treasurer shall serve at the pleasure of the Board.

(5) Committees. The Board may establish Committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions. Committees may include individuals who are not members of the Board.

(6) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings of the Port of the Islands Community Improvement District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds and official acts.

(7) Meetings. The Board shall establish a schedule of regular meetings and may also meet upon call of the Chairman or District Manager. A regular meeting may be cancelled. All meetings of the Board shall be open to the public in accordance with the provisions of Florida Statutes, including but not limited to Chapter 286, Florida Statutes.

(8) Voting Conflict of Interest. The members of the Board shall comply with Chapter 112, Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote.

Specific Authority: 190.001,120.53(1)(d)

Law Implemented: 190.006(1), 190.006(4), 190.060(5) 190.060(6), 190.060(7),190.060(9), 190.007, 112.3143,112.3143(4)(b)

1.3 Public Information and Inspection Records

(1) Public Records. All District public records within the meaning of Chapter 119, Florida Statutes, and not otherwise exempt, confidential or restricted by law, including the "Record of Proceedings of the Port of the Islands Community Improvement District" may be copied or inspected at the District office during regular business hours.

(2) Copies. Copies of public records shall be made available to the requesting person upon payment of the fees and charges allowed or provided by law, as outlined in Chapter 119, Florida Statutes.

1.4 Meetings and Workshops

(1) Notice. Except in emergencies, or as otherwise provided in these Rules, at least seven days public notice shall be given for any meeting or workshop of the Board. Public notice shall be given by publication in newspaper of general circulation in the District and shall state:

(a) The date, time, and place of the meeting or workshop;

(b) A brief description of the nature, subjects and purposes of the meeting or workshop;

(c) The Notice shall state that if a person decides to seek review of any official decision made at the Board meeting, a record of the proceedings will be required and the person intending to appeal will need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence necessary for the appeal.

(2) Agenda. The District Manager shall prepare a notice of the meeting or workshop and an agenda. The notice and agenda shall be available to the public at least seven days before the meeting or workshop except in an emergency. The agenda may be changed before or at the meeting or workshop for good cause stated by the Board and recorded in the minutes.

(3) Minutes. The Secretary shall be responsible for keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting.

(4) Receipts of Notice. Persons wishing to receive, by mail or email, notices or agendas of meetings, may so advise the District Manager or Secretary at the Board's office. Such persons shall furnish a mailing address in writing and may be required to pay the cost of the copying and mailing.

(5) Emergency Meeting. The Chairman, District Manager, may convene an emergency meeting of the Board without first having complied with Subsections (1), (2), (3) and (5), to act on emergency matters that are an imminent threat to the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to notify all Board members of an emergency meeting 24 hours in advance. Reasonable efforts may include telephone notification or communication via electronic media. At the next regular meeting after an emergency meeting, the Board shall state the time, date, and place of the emergency meeting, the reasons why an emergency meeting was necessary, and then ratify any action taken at the emergency meeting.

(6) Public Comment. The Board shall set aside a reasonable amount of time at each regular meeting for public comment, which shall be identified in the agenda. Persons wishing to address the Board are required to notify the Secretary of the Board prior to the "audience comment" section on the agenda. In its discretion, the Board may limit the length of any one speaker in the interest of time or fairness to other speakers.

(7) Budget Hearing. Notice of Hearing on the annual budget shall be in accordance with Section 190.008, Florida Statutes.

(8) Continuances. Any meeting of the Board or any item or matter included on the agenda for meeting may be continued without re-notice or re-advertising provided that the continuance is to a specified date, time and location and publicly announced at the Board meeting where the item or matter was included on the agenda.

Specific Authority: 190.055(5), 190.11(15), 120.53(1)(d)
Law Implemented: 190.007(1), 190.008, 286.0105, 120.54(1)

Section 2 BIDDING, COMPETITIVE SOLICITATION AND RELATED RULES

2.1 Definitions

(a) A "*Continuing contract*" is a contract for professional services that meets the definition of a "continuing contract" in Section 287.055(2)(g), Florida Statutes.

(b) "*Emergency purchase*" is a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, hurricanes, accidents or any circumstances or cause beyond the control of the Board in normal conduct of its business) where the Board (or the Chairman of the Board) certifies a delay incident to a competitive selection process for professional services would be detrimental to the interests of the District.

(c) "*District Representative*" means the person or group designated by the Chairman of the Board to administer the selection process. District Representative may be the Chairman, the Board, any member or committee of the Board, District Counsel, District Manager, or any other entity, person or group of persons.

(d) *Qualifying Procedures*. In order to be eligible to provide professional services to the District, a firm must first be certified by the District as qualified to render the required service. The qualification factors considered by the District may include:

- (1) The firm holds the required applicable state and local professional license which is in good standing.
- (2) The firm holds all required applicable federal licenses, if any, which are in good standing.
- (3) If a firm is a corporation, limited liability company, limited partnership, or other recognized legal entity, such entity is active and in good standing in its state of incorporation or organization and is authorized to do business in Florida.
- (4) The capabilities, adequacy of personnel, past record and experience of the firm.

- (5) Other prequalification requirements set forth in the project, contract documents or established by the Board. including historical materials respecting the firm's business relationships with the District or other entities for which it has provided professional services.
- (6) Insurance requirements as established by the District's Attorney.

(e) "*Public Announcement*" Prior to a public announcement that professional services are required for a project, the Board shall determine whether project exceeds the threshold requirements of Section 287.055, Florida Statutes. Except in cases of valid public emergencies, the District shall publicly announce each occasion when professional services are required to be purchased for a project (exceeding the threshold requirements specified above) by publishing a notice providing a general description of the project and how interested firms may apply for consideration. The notice shall appear in a newspaper of general circulation in the District. The District may maintain a list of persons interested in receiving such notices. The District shall make a good faith effort to provide written notice, by United States mail, to persons who provide their name and address to the District office for inclusion on the List. However, the failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award. The Board has the right to reject any and all bids and such reservation shall be included in the public announcement.

(f) *Competitive Selection*. For each proposed project, the District Representative shall review and evaluate the data submitted in response to the notice described above regarding qualifications and performance ability, as well as any performance data and statements of qualifications on file. The District Representative shall, following the review, select and short list no fewer than three (3) firms, ranked in order of preference, deemed to be the most capable and qualified to perform the required professional services, after considering these and other appropriate criteria:

- (1) The ability and adequacy of the professional personnel.
- (2) Past performance for the District and in other professional employment contracts.
- (3) Willingness and ability to meet time and budget requirements.
- (4) Geographic Locations of the firm's headquarters or office in relation to the project.
- (5) Current and anticipated workloads of the firms.
- (6) Volume of work previously awarded to the firm.
- (7) Quantity of hours proposed to accomplish the project.
- (8) Whether the firm is a certified minority business enterprise.
- (9) All other criteria included in the Request for Qualifications.

Nothing in these Rules shall prevent the District from evaluating, and eventually selecting a firm if less than three responses, including responses indicating a desire not to submit a formal proposal on a project, are received.

If the selection process is administered by any person or entity other than the full Board the selection evaluations will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed. The Board shall make the final determination of the most capable and qualified firms and the order of preference.

Following the ranking process, and after the Board has authorized the beginning of competitive negotiations, the District Representative shall begin negotiations with the firm ranked highest to perform the required professional services. The purposes of such negotiations shall be to finalize an agreement at fair, competitive and reasonable compensation levels. In making such determination, the District Representative (or the Board) shall conduct a detailed analysis of the cost of the professional services required, in addition to considering the scope and complexity of the services provided.

In negotiating a lump-sum or cost-plus-fixed-fee professional contract for more than the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiating certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such certificate is required must contain a provision that "the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Board determines the contract price increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs." All such contract adjustments shall be made within a year following the end of the contract.

If the District Representative is unable to negotiate a satisfactory agreement with the firm initially determined to be the most qualified at a price deemed by the District to be fair, competitive and reasonable then (unless directed otherwise by the Board) negotiations with that firm shall be terminated and the District Representative shall immediately begin negotiations with the second most qualified firm. If the District Representative determines it is unable to negotiate a satisfactory agreement with the second firm, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.

If the District Representative determines it is unable to negotiate a satisfactory agreement with any of the selected firms, additional firms may be selected by the District in order of their

competence and qualifications, and negotiations shall continue, beginning with the first-ranked firm on the List.

Once an agreement with a firm is reached, notice of the award shall be provided to all qualified firms having formally applied for consideration by posting the notice in the District office for seven (7) days, and by sending a copy by United States Mail, overnight delivery, by facsimile transmittal, by email transmission or by hand delivery to those firms.

(g) *Continuing Contract.* Nothing in this Rule shall prohibit a continuing contract between a firm or an individual and the District.

(h) *Prohibition Against Contingent Fees.* Each contract entered into by the District for professional services must contain a specific prohibition against contingent fees as required by Section 287.055(6), Florida Statutes.

(i) *Emergency Purchase.* The District may make an emergency purchase without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting and shall be ratified by the Board.

(j) *Conflicts.* In the event of any conflict or inconsistency between these Rules and Section 287.055, Florida Statutes or other applicable statute or governmental regulation, such applicable statutes and regulations shall control. In the event of any conflict or inconsistency between these Rules and any contract for professional services, these Rules shall control.

Specific Authority: 190.11(5), 287.055(3)(d)

Law Implemented: 190.01(3), 287.055,190.011(2), 190.033

2.2 Procedure Applicable to Contracts Awarded Under Consultants' Competitive Negotiations Act

In accordance with Section 190.033(2) Florida Statutes, and Subject to requirements of Section 287.055, Florida Statutes, the above procedures shall apply to professional engineering, architecture, landscape architecture or registered surveying and mapping services obtained by the Board.

Specific Authority: 190.11(5), 287.055(3)(d)

Law Implemented: 190.01(3), 287.055,190.011(2), 190.033

Section 3 CONTRACTS

3.1 Procedure for Purchasing Contractual Services

(1) Scope. All purchases for contractual services (except for maintenance services) may (but are not required to) be made by competitive Invitation to Bid. If state or federal law prescribes with whom the District must contract, or established the rate of payment, then these Rules shall not apply. A contract involving both goods, supplies and materials plus contractual services may, in the discretion of the Board, be treated as a contract for goods, supplies and materials.

(2) Definitions.

(a) "Contractual Services" means rendering time and effort rather than furnishing specific goods or commodities. Contractual services do not include auditing or professional services (as defined in Section 287.055 Florida Statutes and these Rules) and shall be the services referenced by Section 287.012, Florida Statutes. Contracts for maintenance services for any District facility or project shall be subject to competitive solicitation requirements when the amount thereof to be paid by the District exceeds the amount provided in Section. 287.017, Florida Statutes, for CATEGORY FOUR, as such category may be amended from time to time. Contractual services do not include the extension of an existing contract for services if such extension is provided for in the contract terms.

(b) "Invitation to Bid" is a solicitation for sealed bids with the contract title, date and hour of the public bid opening designated specifically. It includes a description of the services sought, applicable terms and conditions, evaluation criteria. including but not limited to price and provides for a manual signature of an authorized representative.

(c) "Request for Proposal" is a solicitation for sealed proposals with the title. date and hour of the public opening designated and requiring the manual signature of an authorized representative. It provides a statement for services sought, applicable terms and conditions, and evaluation criteria, including but not limited to price. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, proposal instructions, work detail analysis und evaluation criteria, as necessary.

(d) "Responsive bid or proposal" means bid or proposal which conforms in all material respects to an Invitation to Bid or Request for Proposal and these Rules, and whose cost components are appropriately balanced. A bid or proposal is not responsive if the person or firm submitting the bid or proposal fails to meet any requirement relating to the qualifications, financial stability, or licensing of the bidder or proposer.

(e) "Lowest responsible bid or proposal" means, as determined in the sole discretion of the Board, the bid (i) submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements who has the integrity and reliability to assure good faith performance, (ii) is responsive to the Invitation to Bid or Request for Proposal as determined by the Board, and (iii) is the lowest cost to the District. Minor variations in the bid may be waived by the Board. Mistakes in arithmetic extension of pricing may he corrected by the Board. Bids may not be modified after opening.

(f) "Proposal Most Advantageous to the District" means, as determined in the sole discretion of the Board, the proposal submitted by a person or firm (i) who has demonstrated integrity and reliability to assure good faith performance and is capable and qualified in all

respects to perform the contract requirement, (ii) whose response to the Request for Proposals is the most responsive to the Request for Proposal as determined by the Board, and (iii) who has submitted a cost to the District deemed reasonable by the Board. Minor variations in the proposal may be waived by the Board. Mistakes in arithmetic extension of pricing may be corrected by the Board. Proposals may not be modified after opening. To assure full understanding of the responsiveness to the solicitation requirements, discussions may be conducted with qualified proposers. The proposers shall be accorded fair and equal treatment prior to the submittal date with respect to any opportunity for discussion and revision of proposals.

(3) Procedure. When a purchase of contractual services is within the scope of this Rule (and the District has elected to follow this procedure), the following procedure shall be followed:

(a) The Board shall cause to be prepared a notice of Invitation to Bid or Request for Proposal, as appropriate.

(b) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District and posted in the District office. The notice shall allow at least seven (7) days following the date of publication for submittal of bids or proposals unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter time period shall be specified in the advertisement of the invitation or request.

(c) The District may maintain a List of persons interested in receiving Notices of Invitations to Bid or requests for Proposals. The District shall make a good faith effort to provide written notice, by United States Mail, to persons who provide their name and address to the District office for inclusion on the List. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of contract award.

(d) Bids or proposals shall be opened at the time and place noted on the Invitation to Bid and Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules.

(e) If only one response to an Invitation to Bid or Request for Proposal is received, the District may proceed with the procurement for contractual services from such bidder or proposer. If no response to an Invitation to Bid or Request for Proposal is received, the District may take whatever steps are reasonably necessary in order to proceed with the procurement for the needed contractual Services.

(f) The Board has the right to reject any or all bids or proposals. The reservation regarding the right to reject shall be included in all solicitations and advertisements. If the bids or proposals exceed the amount of funds available to or allocated by the District for this purchase, the bids or proposals may be rejected. Bidders and proposers not receiving a contract

award shall not be entitled to recover any costs of bid or proposal preparation or submittal from the District.

(g) The Lowest Responsive and Responsible Bid or Proposal or the most advantageous to the District, as appropriate, may be accepted by the District. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety to be approved by the Board.

(4) Notice. Notice of contract award, including the rejection of some or all bids or proposals, shall be provided in writing to all bidders or proposers by United States Mail, overnight delivery, or by hand delivery

(5) Contract Renewal. Renewal of a contract for contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract, unless otherwise provided in the initial contract. Renewal shall be contingent upon satisfactory performance evaluations by the District.

(6) Contract Manager and Contract Administrator. The Board may designate a representative to function as contract manager, who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. The Board may also designate a representative to function as contract administrator, who shall be responsible for maintaining all contract files and financial information. One person may serve as both contract manager and administrator.

(7) Emergency Purchase. The District may make an emergency purchase of contractual services without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: 190.011(5)
Law Implemented: 190.011(3), 190.033

3.2 Preference for Local Businesses

Each Request for Proposals or bid shall require that the bidder provide an opinion of an attorney to practice law in the state or local jurisdiction where the bidder has its principal business stating whether that state or local jurisdiction provides preferences for local bidders and the nature of the preference. Unless otherwise prohibited by Florida law, if the state or local jurisdiction where the lowest bidder has its principal place of business grants a preference the District shall grant those bidders with their principal place of business in Collier County a preference in the same amount as provided by the state or local government. Unless otherwise prohibited by Florida law, if the state or local jurisdiction where the lowest bidder has its principal place of business does not grant a preference the District shall grant a five percent preference to those bidders who have their principal place of business in Collier County.

3.3 Purchase of Goods, Supplies or Materials.

A \$25,000 purchasing limit before at least three bids are needed except in the event of an emergency as identified by the District Manager and confirmed by the Board Chairman.

(1) Scope. The purchase of goods, supplies or materials exceeding the amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR, as such category may be amended from time to time, shall be purchased under the terms of Section 190.033(1), Florida Statutes and these Rules. Contracts for purchases of goods, supplies or materials shall not be divided solely in order to avoid the requirements of these Rules.

(2) Definitions.

(a) "Goods, supplies and materials" do not include printing, insurance advertising or legal notices.

(b) "Purchase" means acquisition by sale, rent, lease, lease/purchase, license agreement, or installment sale. It does not include transfer, sale or exchange of goods, supplies or materials between the District and any federal, state, regional, or local government entity or political subdivision of the state.

(3) Procedure. When a purchase of goods, supplies or materials is within the scope of this Rule, the following is appropriate:

(a) The Board shall cause to be prepared an Invitation to Bid or Request for Proposal, as appropriate.

(b) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter period of time shall be specified in advertisement of the invitation or request.

(c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid or Requests for Proposals. The District shall make a good faith effort to provide written notice, by United States Mail or email, to persons who provide their name and address to the District office for inclusion on the List. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award.

(d) Bids or proposals shall be opened at the time and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals, shall be evaluated in accordance with Section 190.033(1), Florida Statutes, the invitation or request and these Rules.

(e) The Lowest Responsive and Responsible bid or proposal most advantageous to the District shall be accepted unless the Board rejects all bids, because they

are too high, or the Board determines it is in the best interests of the District to reject all bids. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety acceptable to the Board, Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(f) Notice of award, including rejection of some or all bids, shall be provided by posting the notice in the District office for seven (7) days and by providing a copy to all bidders by United States Mail, email or by hand delivery.

(g) If only one response to an Invitation to Bid or Request for Proposal is received, the District may proceed with the procurement for goods, supplies or materials. If no response to an Invitation to Bid or Request for Proposal is received, the District may take whatever steps are reasonably necessary in order to procure the goods, supplies or materials without further competitive bids or proposals.

(h) The District may make an emergency purchase without complying with these Rules. The fact that an emergency purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting and ratified by the Board.

Specific Authority: 190.01(5)

Law Implemented: 190.33

3.4 Contracts for Construction of Authorized Project

(1) Scope. All contracts for the construction or improvement of any building, structure or other public construction works authorized by Chapter 190, Florida Statutes, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20, Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and comply with the bidding procedures of Section 255.20, Florida Statutes, as the same may be amended from time to time. In the event of a conflict between these Rules and Section 255.20, Florida Statutes, the later shall control. A project shall not be divided solely to avoid the threshold bidding requirements.

(2) Procedure.

(a) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in newspaper of general circulation in the District. The notice shall allow at least twenty-one (21) days from the date such advertisement is first published for submittal of bids, unless the Board, for good cause, determines a shorter period of time is appropriate, which shorter time shall be specified in the advertisement of the invitation or request. Any project projected to cost more than \$500,000 must be noticed at least thirty (30) days prior to the date for submittal of bids.

(b) The District may maintain lists of persons interested in receiving notices of Invitations to Bid or Requests for Proposals. The District shall make a good faith effort to provide written notice, by United States Mail or email, to persons who provide their name and address or email address to the District office for inclusion on the List. However, the failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of any contract award.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of bid or proposal submission:

- 1) Hold the required applicable state and local contractor or professional license in good standing.
- 2) Hold all required applicable federal licenses in good standing, if any.
- 3) If the bidder is a corporation, hold a current and active Florida corporate charter or, if incorporated in another state, have a current active charter from such state of incorporation and be authorized to do business in Florida in accordance with Chapter 607, Florida Statutes.
- 4) Meet any prequalification requirements set forth in the Invitation to Bid or Request for Proposal.

Evidence of compliance with this provision of the Rules shall be submitted pursuant to the requirements of the Invitation to Bid or Request for Proposal.

(d) Bids or proposals shall be opened at the time, date and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules. The District Representative (as defined in Section 1.8) shall evaluate the bids and make a recommendation to the District.

(e) The lowest responsive and responsible bid or proposal most advantageous to the District shall be accepted unless the Board rejects all bids because they are too high, or because the Board determines it is in the best interests of the District to reject all bids or proposals. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety acceptable to the Board. If the Board receives fewer than three responses to an Invitation to Bid or Request for Proposal, the Board may (in its Sole discretion) revise for additional bids. In such circumstances, the originally received bids will be deemed rejected. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(f) To assist in the determination of whether a prospective bidder will be qualified, the District Representative may invite public presentation by firms (prior to the date for submitting

bids) regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(g) In determining whether a bidder will be qualified, the District may consider all relevant information, including but not limited to the following:

- 1) The ability and adequacy of the bidder's personnel.
- 2) Past or current performance for the District and other contracts of the bidder.
- 3) Ability to meet time and budget requirements.
- 4) Geographic location of the bidder's headquarters or office in relation to the project.
- 5) Current and projected workloads of the bidder.
- 6) Volume of work previously awarded to the bidder.
- 7) Additional factors described in the Invitation to Bid or Request for Proposal.

(h) Notice of the contract award, or intent to award, (or notice of rejection of some or all bids) shall be provided by posting the notice in the District office for seven (7) days, with a copy to all bidders by United States Mail, overnight delivery, by email or by hand delivery.

Specific Authority: 190.011

Law Implemented: 190.033; 255.20

3.5 Design-Build Contract Competitive Proposal Selection Process

(1) Scope. The District may utilize design/build contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a design/build contract, the District shall use the following procedure:

(2) Procedure.

(a) The District shall utilize a design criteria professional meeting the requirements of Section 287.055(2)(K) when developing a design criteria package, evaluating the responses or bids submitted by design-build firms, and determining compliance of the project construction with the design criteria package. The design criteria professional may be an employee of the District or may be retained using the Procedure under Consultants' Competitive Negotiations Act.

(b) A design criteria package for the construction project shall be developed and sealed by the design criteria professional. The package shall include concise, performance-oriented drawings or specifications of the project, and shall include sufficient information to put interested firms on notice of substantially all of the requirements of the project. If the project utilizes existing plans, the design criteria professional shall create a design criteria package by supplementing the plans with project specific requirements, if any. All design criteria packages

shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.

(c) The Board, in consultation with the design criteria professional, shall establish the standards and procedures for the evaluation of design-build proposals based on price, technical, and design aspects of the project, weighted for the project.

(d) After a design criteria package and the standards and procedures for evaluation of proposals has been developed, competitive proposals from qualified firms shall be solicited, pursuant to the design criteria by the following procedure:

- 1) A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the County in which the District is located. The notice shall allow at least seven (7) days for submittal of proposals unless the Board, for good cause, determines a shorter period of time is appropriate.
- 2) The District may maintain qualification information, including capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, and other factors, on design-build firms. Such firms shall receive a copy of the request for proposals by mail.
- 3) In order to be eligible to submit a proposal: a firm must, at the time of Receipt of the proposals:
 - a. Hold the required applicable state professional license in good standing, as defined by 287.055(2)(h);
 - b. Hold all required applicable federal licenses in good standing, if any;
 - c. If the bidder or proposer is a corporation, or limited liability company, current and active in Florida; or if incorporated or organized in another state, have a current active status from such state of incorporation or organization and be authorized to do business in Florida.
 - d. Meet any special prequalification requirements set forth in the design criteria package.

Evidence of compliance with these Rules may be submitted with the bid, if required by the District.

(e) The Board shall select no fewer than three design-build firms as the most qualified, based on the information submitted in the response to the request for proposals, and in

consultation with the design criteria professional, shall evaluate their proposals based on the evaluation standards and procedures established prior to the solicitation of requests for proposal.

(f) The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive, and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable; negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards, failing accord with the second most qualified firm, the Board must terminate negotiations. The Board shall then undertake negotiations with the third firm. Should the Board be unable to negotiate satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached.

(g) The design criteria professional shall evaluate the compliance of the project construction with the design criteria package and shall provide the Board with a report of the same.

(h) After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.

(i) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best-qualified design-build firm available at the time. The fact that an emergency purchase has occurred shall be noted in the minutes of the next Board meeting and ratified by the Board.

3.6 Contracts for Maintenance Services

(1) Scope. All contracts for maintenance services of any District facility or project shall be obtained under these Rules if the costs exceed the amount provided in Sections 287.017, Florida Statutes, for CATEGORY FOUR. A contract for maintenance services for any District facility or project may involve the purchase of contractual services and/or goods, supplies or materials. Where a contract for maintenance services for a facility or project includes goods, supplies or materials and/or contractual services, the District may, in its sole discretion, award the contract according to the Rules in this subsection in lieu of separately bidding for maintenance, goods, supplies or materials, and contractual services.

(2) Procedure.

(a) Notice of Invitation to Bid or Request for Proposal shall be advertised at least once in a newspaper of general circulation in the District. The notice shall allow at least seven (7) days from the date such advertisement is first published for submittal of bids, unless the Board,

for good cause, determines a shorter period of time is appropriate, which shorter time shall be specified in the advertisement of the notice or request.

(b) The District may maintain a List of persons interested in receiving Notices of Invitations to Bid or Requests for Proposals. The District shall make a good faith effort to provide written notice, by United States Mail or email, to persons who provide their name and address and email address to the District office for inclusion on the list, However, the failure of a person to receive the notice shall not invalidate any contract awarded in accordance with these Rules and shall not be a basis for a protest of the contract award.

(c) In order to be eligible to submit a bid or proposal, a firm or individual must, at the time of bid or proposal submission:

- 1) Hold the required applicable state and local licenses in good standing.
- 2) Hold all required applicable federal licenses in good standing, if any.
- 3) If the bidder or proposer is a corporation, or limited liability company, current and active in Florida; or if incorporated or organized in another state, have a current active status from such state of incorporation or organization and be authorized to do business in Florida.
- 4) Meet any prequalification requirements set forth in the Invitation to Bid or Request for Proposal.

Evidence of compliance with this provision of the Rules shall be submitted pursuant to the requirements of the Invitation to Bid or Request for Proposal.

(d) Bids or proposals shall be opened at the time, date and place noted on the Invitation to Bid or Request for Proposal. Bids and proposals shall be evaluated in accordance with the invitation or request and these Rules. The District Representative (as defined in Section 1.8) shall evaluate the bids and make a recommendation to the Board.

(e) To assist in the determination of whether a prospective bidder will be qualified, the District Representative may invite public presentation by firms (prior to the date for submitting bids) regarding their qualifications, approach to the project, and ability to perform the contract in all respects.

(f) In determining whether a bidder is qualified, the District may consider all relevant information, including but not limited to the following:

- 1) The ability and adequacy of the bidder's personnel.
- 2) Past or current performance for the District and with respect to other contracts of the bidder.
- 3) Ability to meet time and budget requirements.
- 4) Geographic location of the bidder's headquarters or office in relation to the project.

- 5) Current and projected workloads of the bidder.
- 6) Whether the firm is a certified minority business enterprise,
- 7) Volume of work previously awarded to the bidder.
- 8) Additional factors described in the Invitation to Bid or Request for Proposal.

(g) In evaluating the bids or proposals, the Board shall have the right to accept that bid which the Board determines, in the exercise of its reasonable judgment, is in the best interest of the District, or the Board may reject all bids because they are too high or because the Board determines it is in the best interests of the District to reject all bids. The Board may require bidders to furnish bid, performance and/or other bonds with a responsible surety to be approved by the Board. Bidders not receiving a contract award shall not be entitled to recover any costs of bid preparation or submittal from the District.

(h) Notice of the award or intent to award (or a notice rejecting some or all bids) shall be provided in writing by posting the notice in the District office for seven (7) days, with a copy to bidders by United States Mail, overnight delivery, or by hand delivery.

Specific Authority: 190.011(5)
Law Implemented: 190.033

Section 4 WATER AND SEWER UTILITY RULE

Purpose. The purpose of this Water And Sewer Utility Rule in Section 4 of the Rules (the “Utility Rule”) is to establish comprehensive regulations pertaining to water and wastewater utilities owned and operated by the District; providing for the establishing of rates, fees and charges for utility service, use or consumption by consumers within or without the District; providing provisions for extension of mains and services; providing definitions, including limitations and prohibited uses or practices; providing penalties; providing procedures for hearing disputes involving charges and disconnections; and, providing for deposits and adjustments. For purposes of this Utility Rule, unless stated otherwise, the term “water” shall mean and refer to both potable water and irrigation water.

Necessity. To establish comprehensive regulations pertaining to water and wastewater utilities owned and operated by the District.

Specific Authority: 190.011(5); 190.012; 190.031; 190.035; 190.037
Law Implemented: 190.011(5); 190.012; 190.031; 190.035

4.1 General Provisions and Definitions applicable to the Port of the Islands Community Improvement District Water and Wastewater Systems

The Port of the Islands Community Improvement District does hereby establish uniform policies and provides for the establishment and adoption of comprehensive rates, fees,

charges, and service schedules for its water and wastewater utility system affecting all consumers thereof.

4.2 Definitions:

The following terms and phrases, when used herein, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. Words used in the present terms shall include the future, and the singular number includes the plural, and the plural the singular.

Availability Fee: A fee established to defray the carrying cost of the financing of the capital facilities for potable and irrigation water distribution lines and wastewater collection facilities.

Connection Fees: Those charges of the District required to be paid by a consumer as a condition precedent to the interconnection of District's utility system with a consumer's property.

These fees are established to defray some part of the capital costs of construction of potable water and wastewater treatment facilities, water wells, wastewater disposal facilities, potable and irrigation water distribution lines, and wastewater collection lines, and to contribute to some part of the District's ongoing operating expenses.

Consumer: Any person, firm, association, corporation, governmental agency or similar organization supplied with the availability of water and wastewater service by District which term shall also include developers and large users.

Consumer Installation: All pipes, fixtures, meters, appurtenances of any kind and nature used in connection with or forming a part of an installation for utilizing water and wastewater services for any purpose, located on the consumer's side of "point of delivery", whether such installation is owned outright by a consumer or by contract, lease or otherwise.

Day or days: Unless a different method of calculation is specifically stated, shall mean and refer to a calendar day or calendar days

Developer: Any person, corporation, or other legally recognized entity who engages in the business of making improvements to or upon real property located within or without the District as owner or legally constituted agent for the owner of such real property.

District: The District as defined in Section 1.1 of the Rules.

Easements: Rights of ingress, egress, dedications, rights of way, conveyances or other property interests necessary or incidental to the installation, extension, repair, maintenance, construction or re-construction of District's utility system or any components thereof, over, under or upon consumer's property or property of a third party.

Engineer: The appointed or retained District Engineer of the District or authorized representatives or consultant.

Finance Director: The District Treasurer or their designee.

Fire District: means the Greater Naples Fire Rescue District or other fire district having jurisdiction within the boundaries of the District.

Irrigation Water: As used herein, means water that is utilized for irrigating landscaping or vegetation.

Main: Shall refer to pipe, conduit or other facility installed to convey water or wastewater service from individual laterals or to other mains.

Meter Fee: Those fees and charges established by the District required to be paid by a consumer as a condition precedent to the interconnection of District's utility system with a consumer's property. These fees are established to defray the cost of the meter, the installation thereof, related appurtenances, administrative charges, and labor required by the District for interconnection to the District's facilities.

Off Site Facilities: Those components of water distribution and wastewater collection facilities located outside consumer's property with facilities of the District, in accordance with the size required by the District.

On Site Facilities: Those components of water distribution and wastewater collection facilities located upon consumer's "property".

Point of Delivery: The point where the District pipes are connected with the pipes of the consumer. Unless otherwise indicated, point of delivery for water shall be at the discharge side of the backflow preventer. Unless otherwise indicated point of delivery for wastewater service shall be at the upstream connection of a clean-out placed at or about the edge of public right of way or District utility easement. In the absence of a clean-out the point of delivery is at the wastewater lateral connection to the wastewater main of the District. For irrigation distribution systems the Point of Delivery is the discharge side of the meter.

Port of the Islands Community Improvement District or District: A governmental agency of the State of Florida, created pursuant to Chapter 190 of the Florida Statutes.

Potable Water: As used herein means and refers to water that is satisfactory for human consumption, dermal contact, culinary purposes, or dishwashing as approved by the State of Florida.

Private Pool or Private Swimming Pool: All swimming pools which meet the definition of private pools or private swimming pools under Chapter 514 of the Florida Statutes and Chapter 64E-9 of the Florida Administrative Code.

Property: The land or improvements upon land of which the consumer is owner or over which consumer has control either by contract or possessory interest sufficient to authorize consumer to make application for service, or adjacent right of way which services the land or site being developed. District may require proof of such interest prior to the furnishing of service by copy of

instrument of conveyance, contract or appropriate verified statement contained in the application for service.

Public Pool, Public Swimming Pool or Commercial Swimming Pool: All swimming pools which do not meet the definition of private pools or private swimming pools under Chapter 514 of the Florida Statutes and Chapter 64E-9 of the Florida Administrative Code.

Rate Schedule: The schedule or schedules of rates, fees and charges for the particular classification of service

Service: Shall be construed to include, in addition to all water and wastewater utilities required by the consumer the readiness and ability on the part of the District to furnish water and wastewater services to the consumer or to property.

Service or Lateral Lines: Those pipes of the District that connect to consumer's lines.

Terms "Shall" and "May:" As used herein, the word "may" is permissive, and the word "shall" mandatory.

Utilities Director: The appointed Head of the Utility Department of the District or authorized representative or designee; or, the designated primary employee of a District retained utilities service operator/vendor.

Utility Rule: As used hereon, means and refers to this Water And Sewer Utility Rule in Section 4 of the Rules.

Utility System: As used herein, refers to the District's water withdrawal, processing and distribution and wastewater collection and treatment systems, and any component parts thereof.

Water: As used herein, unless otherwise indicated or stated, means and refers to both potable water and irrigation water.

4.3 General

It is the policy of the District and the requirements of this Utility Rule that there is not permitted the individual installation and use of any private wells or septic tanks without the express written consent of the District. Property owners are advised that as part of the District's utility system there is or will be a District's utility system including the irrigation distribution facilities and to take proper caution to ensure that there is not permitted a cross connect between the irrigation lines and the potable water service line. Prior to the connection of the irrigation and potable service lines to each residential or commercial user the Utility Director shall be notified in writing not less than 72 hours prior to such connection so that an inspection can be made.

In the absence of a specific valid written agreement to the contrary, these regulations and Utility Rules apply without modification or change to each and every consumer to whom the District renders service.

4.4 Application for Service

Service shall be furnished only upon signed application accepted by District and the conditions of such application are binding upon the consumer as well as upon the District. The terms, conditions and provisions of this Utility Rule are incorporated into and made a part of each application. To obtain service, application shall be made at the District in the place or places designated by the Finance Director. Applications are accepted by the District with the understanding that there is no obligation on the part of the District to render service other than that which is then available from its existing water production and distribution equipment and service lines, and from its existing wastewater treatment collection, transmission and treatment facilities. The applicant shall furnish to the District at the time of making application the name of the applicant, the ownership or other interest in or to the property or location and the legal description or street address at which service is to be rendered.

Application for service required by firms, partnerships, associations, corporations and others, shall be tendered only by duly authorized parties. When service is rendered under agreement or agreements entered into between the District and an agent of the principal, the use of such service by the principal shall constitute full and complete ratification by the principal of the agreement or agreements entered into between the District and an agent of the principal under which such service is rendered.

At the time of application for service the applicant shall pay the fees, rates and charges Identified on Schedule "B" for the connection fee as well as any and all other applicable District fees and charges. Applicant will be billed in accordance with the water and wastewater rates, fees and charges shown on Schedule "A."

4.5 Withholding Service

The District may withhold service to a consumer who makes application for service at or upon a location for which prior service has not been paid in full to the date of such application. It shall be the responsibility of the renter applicant, not the property owner to make Inquiry as to the delinquent status of the account and bring said account current as a condition precedent to continuation of service. The District shall maintain current records of outstanding accounts and shall make such information available to the public at its office during normal business hours. Service may also be withheld for service installations which are not complete or are not in compliance with District requirements.

4.6 Limitations of Use

Utility service purchased from the District shall be used by the consumer only for the purpose specified in the application for service. The consumer shall not sell or otherwise dispose of such utility service supplied by the District. All utility service furnished by the District to the consumer shall be through District meters and may not be re-metered by the consumer for the purpose of selling or otherwise disposing of such service without the written consent of the District. In no case shall a consumer, except with the written consent of the District, extend water or wastewater lines across a street, alley, lane, court, property line, avenue, or other public thoroughfare or right of way in order to furnish utility service to adjacent or other property even though such adjacent or other property is owned by such consumer.

4.7 Unauthorized Connection or Use

No person without prior written consent of the District shall tap any pipe or main belonging to District water or wastewater system for the purpose of taking or using water from the system or from such pipe or main, for connecting to the wastewater system, or for any other purpose. Connections to the District's water or wastewater system for any purpose whatsoever are to be made only as authorized by the District in writing. In case of any unauthorized interconnection, extension, re-metering, sale or disposition of utility service, consumer's utility service shall be subject to discontinuance until such unauthorized use or disposition is discontinued and full payment is made for such service, calculated on proper classification and rate schedules plus penalties and reimbursement in full made to the District for any extra expenses incurred by District as the result of such unauthorized use, including administrative costs, testing inspections, and court costs. In addition, unauthorized use may result in appropriate criminal prosecution by District.

4.8 Consumer Deposits

Before rendering service, a deposit to secure the payment of bills and any expenses incurred by District is required and, upon payment, the District shall give the consumer a non-negotiable and non-transferable deposit receipt. Such deposit shall bear no interest and shall remain with the District until termination of service. Deposits shall be made in accordance with the rate schedules of the District in effect at the time of payment. Upon final settlement of a consumer's account, the deposit may be applied by District to any account balance due and any remaining balance of the deposit will be refunded upon surrender to the District applicable deposit receipt or when the receipt cannot be produced, upon adequate identification. The District may require additional deposits for consumers whose services have been previously disconnected due to non-payment as a condition to resumption of and continued service.

4.9 Billing

Bills for service shall be rendered periodically at intervals not to exceed ninety (90) days as directed by the Board of Supervisors by Resolution, and shall be due when rendered. A bill shall be deemed rendered when mailed United States mail, postage prepaid, or when delivered to the consumer's address shown on the application for service. No partial payment of any bill rendered will be accepted by District unless authorized by the Finance Director in writing indicating the reason therefor, such as a contested billing, consumption, or hardship.

4.10 Delinquent Billing: Liens in Favor of District, Procedures for Contesting Charges

To the extent authorized by Florida law, delinquent utility rates, fees and charges shall be deemed liens upon the real property or premises and may be foreclosed as provided by law. All statements and billings for utility services shall be due when rendered and deemed delinquent if not paid within twenty (20) days of the date rendered and the utility service subject to termination. If a statement or billing remains unpaid and a new billing is rendered, the statement or billing will include the uncollected delinquent balance, listed as a "prior balance" in addition to the current charges. No service will be discontinued for a balance due equal to or less than one month's minimum charge. All utility bills shall be paid on or before the due date to avoid discontinuance of service.

A reminder notice will be mailed by the District on the 21st day after the statement or billing is rendered indicating a cutoff date which shall be no less than ten (10) days from the date of the delinquent notice. Statements or billings not paid within 48 hours of the cutoff date will receive a doorhanger indicating a Final Notice of Intent to Terminate Service which shall be placed on or about the main entrance of the premises at which service is being provided. Non-payment by 10:00 a.m. EST on the cutoff date will result in termination of service on that date. Service shall not be resumed after termination until all charges outstanding at the property have been paid in full in cash, and all fees, costs, charges and deposits authorized by the Utility Rules have been paid.

Any consumer contesting any statement or billing shall first present same to the District utility billing department with a statement of explanation or contest in writing prior to the bill becoming delinquent. If the matter is not then resolved, the Finance Director shall, within seven (7) days, notify the consumer in writing that the matter will be heard before a panel consisting of the Finance Director or his designee, and a representative of the District administration. Notice shall be given to the consumer at least seven (7) days prior to the scheduled hearing by mail to the address which appears on the consumer's utility billing, or by personal service by leaving a copy of said notice at the address where service is provided. either by delivery to any person upon

the premises, by posting in a conspicuous place on or about the main entrance, or by placing same in any receptacle used on the premises for the deposit of mail. Refusal by a consumer to accept service or notice thereof shall be noted upon the notice, and shall be deemed a waiver by the consumer of the opportunity for a hearing, in which case the determination of the District utility department shall be final. The hearing shall be conducted during normal business hours at District Offices, or a time which is mutually convenient to all. If during the hearing process an adjustment to the billing is made, a refund to the consumer shall be rendered either by check or as a credit to consumer's active account within seven (7) days as determined by the Finance Director. If, after this hearing the matter is not resolved, then the consumer may request an appearance before the Board of Supervisors, in which event all documents, transcripts, findings, and statements shall be transmitted to the District Manager. It shall be the duty of the Manager to notify the consumer of the public hearing at which the consumer is to appear before the Board of Supervisors, by mail or delivery of notice as provided in this Section.

Specific Authority: 190.011(5); 190.012; 190.031; 190.035

Law Implemented: 190.011(5); 190.012; 190.031; 190.035

4.11 Adjustment of Bills: Meter Readings, and Inspections

When a consumer is determined by District to have been overcharged or undercharged as a result of incorrect meter reading, defective metering, incorrect application of rate schedule fees and charges, or mistake in billing, the amount so determined may be credited or billed to the consumer, as the case may be. The District may read and inspect meters periodically to determine their condition and accuracy and as a basis for periodic billings. If a consumer requests an inspection or re-reading of a meter, the District may impose and collect a service charge or fee therefor in accordance with Schedule "D".

4.12 Access to Premises

As a condition to providing service, the consumer shall grant to the District or its authorized agents or employees access to consumer's property during all reasonable hours and, in the event of an emergency, at any time, for the purposes of reading meters or maintaining, inspecting, repairing, installing or removing District's property, and for any other purposes incident to performance under or termination of any agreement with a consumer or such consumer's predecessor in interest or use of the facilities or services made accessible to the District by the consumer or to be relocated by the District.

4.13 Inspection of Consumer's Installation

District reserves the right to inspect and approve any consumer installation prior to providing service and from time to time thereafter to ensure compliance with applicable laws,

ordinances, this Utility Rule, policies and procedures of the District; and rules and regulations affecting such installation or the provision of utility services. No changes or increases in any consumer installation which will adversely affect or materially affect proper operation of District utility system shall be made by a consumer. Consumer shall be responsible for the cost of making changes or repairs resulting from any unauthorized alteration, and the District may require payment or reimbursement therefor as a condition to continued service.

4.14 Protection of District Property

In the event of any damage to District property located upon consumers' property which arise out of any act or omission of consumer or consumer's agents, employees or independent contractors, the cost of repairs or replacement shall be the responsibility of the consumer, and full payment or reimbursement to District therefor may be conditions imposed by District for the continuation of service.

4.15 Change of Occupancy, Termination or Transfer of Services

It shall be the obligation of the consumer to notify the District in writing of any change of occupancy, or other circumstances for which termination or transfer of service is requested, and consumer shall be responsible for all service charges and fees incurred to the date upon which written or personal notification is received by District.

4.16 Resumption of Service

After termination or discontinuance of service as provided herein, the District may require as a condition precedent to service resumption payment in full or adequate security in the form of additional security deposits to cover all costs reasonably incurred by District as the result of such termination or discontinuance, including any re-connection fees, meter installation or removal and re-installation costs, inspection costs, or other costs or expenses incident thereto in accordance with District's schedule of rates, fees, charges and costs for such services then in effect.

4.17 Continuity of Service

The District will at all times use reasonable diligence to provide continuous service, and having used reasonable diligence, shall not be liable to the consumer for failure or interruption of continuous service. The District shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accident, litigations, breakdowns, shutdowns for repairs or adjustments, acts of sabotage, enemies of the United States, wars, governmental interference, acts of God or other causes beyond its control.

4.18 Maintenance and Standards

All pipes, conduits or other component parts of service installed in or upon the premises of a utility consumer shall conform to District standards of type, quality, quantity and regulations regarding installation. Consumer shall be responsible for maintaining all on site facilities in proper repair, and shall not alter or modify any interconnection of service without first notifying District and securing approval therefor in writing from an authorized representative of District's utility department. Unauthorized alteration or modification of any on site utility service interconnection may result in immediate termination of the affected service and repair or restoration by District or at its direction at the consumer's costs.

4.19 Meters

Each consumer of the District receiving water must have a water meter which measures flow, and which is the ultimate basis for water charges. All water meters shall be furnished by, installed by and remain the property of the District and shall be accessible to and subject to its control. Meters are not transferrable to another residence or business site. The consumer shall provide meter space to the District at a suitable and readily accessible location and when the District considers it advisable, within the premises to be served, adequate and proper space for the installation of meters and other similar devices. Before a meter is installed, all applicable fee, rates and charges, including all meter fees, connection fees and review fees being due must be paid.

Consumers shall have separate meters for irrigation purposes only. Owners of Public Pools, Public Swimming Pools or Commercial Swimming Pools may request separate meters for such pools. The meter to be furnished by the District shall be sized to be compatible with the existing line and main sizes according to District standards and specifications at the consumer's expense. The consumer shall be required to provide a proper service connection and service line in accordance with the District standards and specifications. Meter sizes, other than those originally specified or intended, shall be as approved by the District Engineer and the District Utilities Director.

4.20 All Water Through Meters

That portion of the consumer's installation for water service shall be arranged so that all water service shall pass through the meter. No person shall make or cause to be made any connection with, any main, service pipe, or other pipes, appliances or appurtenance used for or in connection with the District's water system in such manner as to cause to be supplied water from such plant to any faucet or other outlet whatsoever without such water passing through a meter provided by the District and used for measuring and registering the quantity of water

passing through the same, or make or cause to be made, without the consent of the District, any connection with any such plant or any main, pipe service pipe or other instrument or appliance connected with such plant in such manner as to take or use, without the consent of the District, any water.

4.21 Meter Testing

The District reserves the right to remove the meter and check, repair, or replace it at any time at no cost to the consumer. Should a consumer desire his meter to be checked at any time, he may have this work done by submitting a written request accompanied by a fee in accordance with the rate schedules of the District in effect at the time of such testing. Should the meter be tested and found to be registering over two percent (2%) more than is actually used, the immediately preceding four (4) months service bill will be adjusted accordingly, the meter will be repaired or replaced, and the fee returned. In any other case, the amount of the fee shall be retained by the District to defray the cost of testing.

4.22 Damaging, Tampering with, Etc. Facilities of Utility Plant or System

No person shall: damage or knowingly cause to be damaged any meter or water or wastewater pipe or fittings connected with or belonging to a District water or wastewater system, or tamper or meddle with any meter or other appliance or any part of such system in such manner as to cause loss or damage to the District; prevent any meter installed for registering water from registering the quantity which otherwise would pass through the same; alter the index or break the seal of any such meter; in any way hinder or interfere with the proper action of just registration of any such meter; fraudulently use, waste or suffer the loss of water passing through any such meter, pipe or fitting, or other appliance or appurtenance connected with or belonging to such system after such meter, pipe, fitting, appliance or appurtenance has been tampered with, injured or altered.

4.23 Private Fire Service Connection

A private fire service connection is to be used for fire purposes only and is to have no connection whatsoever with any service lines that may be used for other than fire purposes, and because of the danger of pollution, shall have no connection with any other source of supply with the exception in case a tank or fire pump is installed as secondary supply. There shall be a backflow preventer installed by the consumer at the consumer's expense in each District connection to prevent the water from these secondary supplies from flowing into the District mains.

The consumer shall not draw any water whatsoever through this connection for any purpose except the extinguishing of fires, or for periodic tests of the fire system, which tests shall

be made in the presence of a representative of the District, in coordination with a representative of the Fire District. Any authorized representative of the District shall have free access to the building at any reasonable time for the purpose of inspecting any of the equipment.

The consumer shall set in this connection at the point of delivery a weighted check valve fitted with a by-pass on which shall be set a meter, installed by District at consumer's expense, the purpose of which shall be to indicate whether or not water is being used through this connection and for the further purpose of showing any leakage, if same exists. All meters shall become the property of the District.

Violation by the consumer of any of the regulations in this section shall justify the District disconnecting said pipe or pipes or stopping the flow of water through same and notifying the Fire District.

The right is reserved by the District to shut off the supply at any time in case of accident, or to make alterations, extensions, connections, or repairs and if possible, the District agrees to give ample notice of such shut-off to the consumer and Fire District.

The District does not make any guarantee as to a certain pressure in the pipe or in the main supplying same, and shall not be, under any circumstances held liable for loss or damage to the owner for a deficiency or failure in the supply of water, whether occasioned by shutting off of water in case of accident or alteration, inspection, extensions, connections or repairs, or for any cause whatsoever.

When fire line valves or connections are used in case of fire or for any other reason whatsoever, the consumer shall immediately notify the District and Fire District and the District shall forthwith reseal the used valves or connections.

4.24 Termination of Service

All utility service shall be pursuant to proper permit or application, which procedure accords the District the opportunity to provide for orderly expansion of facilities and regulation thereof in a manner calculated to ensure continuous service to all consumers. Inherent in this obligation is the governmental prerogative of necessity to terminate consumption which is averse to the continuous, orderly and uninterrupted operation and maintenance of its utility service. Accordingly, the District reserves the right by unilateral act in its sole discretion to refuse service, or to terminate service temporarily, or to discontinue service in all instances when conditions exist which would constitute an emergency of public concern, or when the providing of any service would constitute a threat to the safety, health or welfare of consumers generally or a significant portion of the consumer population, or when required to do so by order or act of appropriate governmental agencies. When discontinuance or termination of service can be remedied by an act of the consumer, District shall provide notice of remedial action to the consumer in order that

service may be continued uninterrupted. Acts considered to be remedial by the consumer, and for which service may be temporarily terminated, discontinued or interrupted are the following;

- (a) Failure to pay required deposits for service.
- (b) Failure of consumer to meet provisions of agreements with the District.
- (c) Failure to correct deficiencies in piping or other components upon consumer's property after reasonable notice thereof.
- (d) Use of service for any other property or purpose than described in the permit or application.
- (e) When requested by consumer, in which case resumption of service shall be accomplished in accordance with District policy as herein provided.

In addition to the other rights of the District to refuse service, terminate service temporarily, or to discontinue service outlined in the Utility Rule, the District reserves the right by unilateral act in its sole discretion to refuse service, terminate service temporarily, or to discontinue service without notice under the following circumstances:

- (a) Causing, or allowing to exist, a hazardous condition with respect to the location, use of, or access to any utility service or component.
- (b) Alteration or modification of any transmission or metering component or device used in providing any utility service to the consumer. Any such unauthorized use, if fraudulent, may result in criminal prosecution and may result in restitution of revenue lost to the District as a condition to restoration of service, including costs of repair or restoration of any meters or components to normal service condition, as shall be determined by District.
- (c) Total or partial destruction of, or abandonment of, any structure, including any vacancy for a duration which, in District's opinion, may create a hazardous or unsafe condition or constitute a nuisance.

4.25 Amendments to Rate Schedules

Rate schedules are attached hereto as exhibits, being identified as: Schedule "A," Water Wastewater and Irrigation Rates, Fees and Charges; Schedule "B," New Meter Installation and Connection Fees; Schedule "C," "Permit Review Fees"; and, Schedule "D", "Miscellaneous Utility Fees and Charges". These rate schedules and charges may be amended from time to time by a Resolution of the Board of Supervisors upon public notice and at least one public hearing, using the procedure outlined in Section 190.035, Florida Statutes. A resolution amending rate schedules shall be entitled generally (as appropriate to the schedule being amended): "A Resolution of the District Amending Schedule (A), (B), (C), (D) Relating to Water Wastewater and Irrigation Rates, Fees and Charges or Miscellaneous Fees"; providing an effective date.

When enacted the Resolutions and the rate schedules amended thereby shall be attached to and shall become exhibits to this Utility Rule.

4.26 General, Declaration or Policy

The District owns, operates and maintains water treatment and distribution systems and distribution and wastewater collection treatment and disposal systems which serve residents within the District. New development may require the construction of mains to provide service, as well as expansion of facilities to accommodate new development. In some instances, the District in anticipation of expansion of its systems due to growth and development has already provided mains for service thereof. The cost of providing new extensions, notifications, and expansions of facilities may be borne by the District or by property owners, builders or developers as the District may decide in each instance. It is the declared policy of the District to establish a uniform method of determining charges for availability of services so that all such contributions shall be non-discriminatory among the various consumers within a given class, as defined by the District, served by the District's systems. District specifically reserves its rights to fix and determine rates, fees, charges, and contributions required for the provisions, consumption, operation, maintenance, extension, and expansion of its utility services as provided herein and as authorized by law. Each consumer is hereby notified that the District, in the exercise of its governmental responsibility to provide for the welfare of all consumers of its utility services, has the authority and responsibility to amend its schedules of rates, fees charges and contributions from time to time, as outlined in the Utility Rule to ensure the perpetuation of service.

4.27 Easements and Rights of Way

As a prerequisite to the construction of any water distribution or wastewater collection system proposed to be connected to the facilities of District, a property owner or developer shall agree to grant to District such easements or rights of way corresponding with the installation of the proposed facilities. Such grant or conveyance shall be in the form and with a content acceptable to the District. Such conveyances shall be made without cost to the District. District reserves the right to require such easement or right of way to the point at which the meter is proposed to be installed or at the point of delivery of service, being the point at which the facilities of District joins with consumers. Such easements and right of way shall be conveyed and accepted upon completion, approval and acceptance of the work done by a property owner or developer.

4.28 Inspection

The District shall inspect the installation of all water distribution or wastewater collection facilities installed by a property owner or developer or their contractors, which facilities are proposed to be transferred to District for ownership, operation and control.

Such inspections are intended to assure that water and wastewater lines and/or lift stations are installed in accordance with District approved designs and plans and are further consistent with the criteria and specifications governing the kind and quality of such installation. Representatives of the District may be present at tests of component parts of water distribution or wastewater collection systems for the purpose of determining that the system, as constructed, conforms to District's criteria for exfiltration, infiltration, pressure testing, line and grade. Such tests will be performed by a property owner or developer or their contractor, but only under the direct supervision of the engineer of record or authorized inspector. The results of such testing shall be certified by the engineer of record. The District shall be notified in writing at least 72 hours prior to any inspections or testing performed in accordance with these regulations.

4.29 Transfer of Contributed Property

Each Developer who has constructed portions of the water distribution and wastewater collection system prior to interconnection with District's existing facilities, shall sell or convey, as may be agreed between the parties, such component parts of water distribution and wastewater collection system to District by bill of sale in form satisfactory to the District, together with such evidence as may be required by District that the water distribution and wastewater collection system proposed to be transferred to District is free of all liens and encumbrances.

Any facilities in the category of consumers lines, plumber's lines or consumers installation, located on the discharge side of the water meter or on the consumer's side of the point of delivery of service shall not be transferred to District and shall remain the property of developer, a subsequent owner-occupant or their successors and assignees. Such consumers lines, plumber's lines or consumers installation shall remain the maintenance responsibility of developer or subsequent consumers.

District shall not be required to accept title to any component part of the water distribution or wastewater collection system as constructed by developer until the District Engineer has approved the construction of said lines, accepted the tests to determine that such construction is in accordance with the criteria established by District and the Board of Supervisors has evidenced its acceptance of such lines for District's ownership, operation and maintenance.

District may refuse connection and deny the commencement of service to any consumer seeking to be connected to portions of the water distribution and wastewater collection system

installed by developer until such time as the provisions of this paragraph have been fully met by developer or developer's successors or assigns.

4.30 Improvements and Extensions of the Water Distribution and Wastewater Collection Systems and Utility Inspection Fees.

The District shall be responsible for the financing, purchase, construction and operation of major mains, lift stations, force mains and related appurtenances hereinafter referred to as major facilities as identified in the District's Utility Master Plan or Capital Improvement Plan. Any other facilities not specifically identified in said plan will be the responsibility of the landowner and/or developer and will include water distribution and wastewater collection lines, lift stations, and appurtenances that are required to serve lots, tracts or parcels that connect to the District's major facilities, hereinafter referred to as subdivision facilities. If the proposed development requires upgrading of or modifications to District Facilities, the landowner and/or developer shall be responsible for the cost and expense to upgrade or modify District Facilities. The subdivision facilities will be designed in accordance with District standards and the developer may choose one of the two following procedures for the design and construction of subdivision facilities:

1) Developer may request the District, through its consulting engineers to design the subdivision facilities and shall advance the funds to the District as required to pay engineering invoices incurred by the District in said design. Such advances will be non-reimbursable and may be required to be posted in total prior to the District's authorization for its engineers to commence the work.

Upon the completion of the design the District will solicit competitive bids and award same in accordance with the provisions of Chapter 287 Florida Statutes and Chapter 190 Florida Statutes for the construction of the subdivision facilities. The award will be contingent upon the developer advancing to the District funds in the amount of the accepted bid plus 25% for engineering, legal and contingencies. Upon the completion of the subdivision facilities, any monies remaining will be returned to developer within 30 days of receipt of the engineer's certification of completion.

2) Developer may choose his own engineer to design the subdivision facilities in accordance with District rules and regulations and in accordance with the District's design criteria and submit same to the District for review which upon the submittal, developer will pay to the District permit review fees in accordance with Schedule "C."

Upon the completion of the design and approval of same by the District, developer may contract directly with a company who has knowledge and expertise in the installation of water distribution and wastewater collection facilities to install the subdivision facilities. District shall be notified in writing prior to the commencement of construction and will make periodic inspections

of the work. Developer agrees to pay to the District such fees as District may currently have in effect to defray the costs of such inspections.

4.31 Refundable Advances

The District may require a refundable advance by developer to further temporarily defray the cost of any off-site extension of water and/or wastewater mains and pumping stations necessary to connect the developer's property with the terminus of the District's water and wastewater facilities adequate in size to provide service to the subject property. However, this Utility Rule recognizes instances in which a developer may be required to advance the hydraulic share applicable to other undeveloped property in order that offsite facilities may be constructed to serve developer's property and at the same time be sized in accordance with the District's master plan. All amounts expended by developer, over and above developer's hydraulic share for offsite facilities shall be refunded to developer in accordance with the terms and conditions of a refunding agreement which the District will execute with developer. The refund agreement shall provide for a plan of refund based upon the connection of other properties, to the extent of their hydraulic share, which properties will be served by the offsite facilities installed by developer. Notwithstanding the provisions of this section, the District will limit the life of such refund agreement to a term of not more than five (5) years after which time any portion of the refund not made to developer by the terms and conditions of the refund agreement will have lapsed and thereafter, such refund agreement will be cancelled. In no event shall developer recover an amount greater than the difference between the capitalized cost of such offsite improvements and developer's own hydraulic share of such improvements. The District shall not include any Interest upon the refund of developer's advance.

4.32 Voluntary Water Service Suspension

4.32.1 The purpose of this Section 4,32 is to establish a policy for voluntary water service suspension by property owners who will be absent from the District for an extended period of time, to ensure that water service is properly turned off to protect the integrity of the back-flow preventers operated and owned by the District.

4.32.2 Any property owner who will be absent from the District for an extended period of time and who desires to suspend their water service may contact the Utilities Director or designee and request a turn off or turn on. The District will provide one turn off and subsequent turn on of the service at the property each year at no charge to the property owner. Subsequent turn offs and turn ons will be charged the applicable rate under the District's then effective schedule of rates, fees and charges. The actual time and date of the turn off or turn on is

subject to staff scheduling. Utility service will not be restored unless an authorized representative of the property owner, with access to the property, is present.

4.32.3 Any property owner who turns off their own water without the assistance of District staff will be liable for any damages that occur to the District-owned back flow preventer. Damage occurring during the time the water is turned off will be presumed to be the result of the property owner's violation of this procedure.

Specific Authority: 190.011(5); 190.012; 190.031; 190.035
Law Implemented: 190.011(5); 190.012; 190.031; 190.035

Section 5 UTILITY EQUIVALENT RESIDENTIAL CONNECTIONS (UERCS)

5.1 Transfer of Utility Equivalent Residential Connections (“UERCs”) Between Properties

5.1.1 Purpose: The purpose of this Section 5 is to provide a process for the District to consider requests for the transfer only of utility capacity to properties or between properties, as a result of changes in the development potential for property or the development of property subject to assessment for irrigation water, potable water and wastewater capacity; and, to establish a uniform and comprehensive procedure for capacity of the District's water, wastewater and irrigation system and related assessments for debt service or operation and maintenance allocated to a specific property to be transferred to other property within the District boundaries; and for the consideration of assignment of District held UERCs to properties lacking sufficient UERCs for development.

Specific Authority: 190.011(5); 190.012; 190.031; 190.035
Law Implemented: 190.011(5); 190.012; 190.031; 190.035

5.1.2 Procedure. Transfer of Utility Equivalent Residential Connections Between Properties.

It is recognized that the development potential of property subject to assessments for irrigation water, potable water, and wastewater utility capacity may change and that certain discrete tax parcels may develop in a manner that requires actual service greater or less than the number of Utility Equivalent Residential Connections ("UERCs") originally attributed or allocated to the parcels. As such, the following procedures for requesting the transfer of UERCs are provided.

1. Procedure to Request Transfer of Utility ERCs Between Parcels Under Common Ownership:

The owner of any tax parcel subject to assessments for UERCs shall have the right to make application to the District to sever all or any portion of the UERCs from the tax parcel and transfer

such UERCs to other tax parcels within the District that are in common ownership with such tax parcel, in the following manner:

- A. The owner shall provide an attorney's affidavit in certification of the following, which affidavit shall be submitted with the Application described below:
 - i. The affidavit is given as an inducement to the District to transfer UERCs.
 - ii. The identity and current address of the record title holder to the tax parcel from which the UERCs are to be transferred, with a copy of the instrument by which the property owner acquired title, specifying the recording information within the Official Records of Collier County, Florida for that document.
 - iii. The identity of the record title holder to the tax parcel to which the UERCs are to be transferred, with a copy of the instrument by which the property owner acquired title, specifying the recording information within the Official Records of Collier County, Florida for that document.
 - iv. The Collier County Property Appraiser's tax identification number/parcel number of the tax parcel from which the UERCs are to be transferred.
 - v. The identity and current address of any other entity or person, corporate or natural, who has any interest in the property from which the UERCs will be transferred, whether such interest is equitable or legal, including mortgage holders of record, if any.
- B. The owner shall submit an Application to Transfer UERCs in form and substance satisfactory to the District, which shall be executed by all parties with interests in the property from which the UERCs will be transferred (including but not limited to all mortgage holders), with the formality necessary to record a Deed in the Public Records.
- C. The owner shall prepay all assessments for the property from which the UERCs are being transferred; to the extent the current year's assessments have not been paid.
- D. The owner shall provide evidence satisfactory to the District that there are no unpaid prior year's assessments of any nature outstanding on the property from which UERCs are being transferred, and there are no outstanding tax certificates associated with the property from which the UERCs are being transferred.
- E. The owner shall pay to the District an application fee equal to the estimated amount of legal and engineering fees to be incurred to review the requested UERC transfer; which amount will be credited against the final amount of legal and engineering fees incurred. This is for purpose of covering the District's professional services costs for reviewing and processing the Application.

2. Procedure to Request Purchase and Transfer of District Owned Utility Equivalent Residential Connections

The owner of any tax parcel subject to assessments for UERCs shall have the right to make application to the District to acquire, from the District, UERCs held or possessed by the District. Any property owner who desires to acquire and transfer District owned UERCs to increase the available utility capacity on their property may make application therefor in the following manner:

- A. The owner of the property to which the UERCs will be transferred shall provide an attorney's affidavit in certification of the following:
 - (i) The affidavit is given as an inducement to the District to transfer UERCs.
 - (ii) The identity and current address of the record title holder to the tax parcel to which the UERCs are to be transferred, with a copy of the instrument by which the property owner acquired title, specifying the recording information within the Official Records of Collier County, Florida for that document.
 - (iii) The Collier County Property Appraiser's tax identification number/parcel number of the tax parcel to which the UERCs are to be transferred.
 - (iv) The identity and current address of any other entity or person, corporate or natural, who has any interest in the property to which the UERCs will be transferred, whether such interest is equitable or legal, including mortgage holders of record, if any.
- B. The owner shall submit an Application to Acquire and Transfer UERCs in form and substance satisfactory to the District, which shall be executed by all parties with interest in the parcels, with the formality necessary to record a Deed in the Public Records. The Application shall describe the purposes and basis for the request and be accompanied by an economic analysis as to the impact on the District's utility system and the financial position of the District if the Application were to be approved.
- C. The owner shall pay to the District an application fee equal to the estimated amount of legal and engineering fees to be incurred to review the requested UERC transfer; which amount will be credited against the final amount of legal and engineering fees incurred. This is for purpose of covering the District's professional services costs for reviewing and processing the Application.
- D. In addition, if the Application is approved, the owner shall, as a condition of approval, prepay, or cause to be prepaid an amount established and set by the Board per District Owned UERC transferred to the property.
- E. For purposes of this Rule:

(i) District Owned UERCS shall mean those six UERCS associated with parcels 74890000602 and 74890000301 and the UERCS previously apportioned to parcels 01058920005 and 01058920500; together with any other ERCs transferred to, acquired by or allocated to the District.

3. Procedure to Request Transfer of Utility ERCs Between Parcels Under Separate Ownership

The owner of any tax parcel subject to assessments for UERCS may make application to the District to sever all or any portion of the UERCS from the tax parcel and transfer such UERCS to other tax parcels within the District that are under separate ownership from such tax parcel, in the following manner:

- A. The owner of the property from which the UERCS will be transferred shall provide an attorney's affidavit in certification of the following:
- (i) The affidavit is given as an inducement to the District to transfer UERCS.
 - (ii) The identity and current address of the record title holder to the tax parcel from which the UERCS are to be transferred, with a copy of the instrument by which the property owner acquired title, specifying the recording information within the Official Records of Collier County, Florida for that document.
 - (iii) The Collier County Property Appraiser's tax identification number/parcel number of the tax parcel from which the UERCS are to be transferred.
 - (iv) The identity and current address of any other entity or person, corporate or natural, who has any interest in the property from which the UERCS will be transferred, whether such interest is equitable or legal, including mortgage holders of record, if any.
- B. The owner of the property to which the UERCS will be transferred shall provide an attorney's affidavit in certification of the following:
- (i) The affidavit is given as an inducement to the District to transfer UERCS.
 - (ii) The identity and current address of the record title holder to the tax parcel to which the UERCS are to be transferred, with a copy of the instrument by which the property owner acquired title, specifying the recording information within the Official Records of Collier County, Florida for that document.
 - (iii) The Collier County Property Appraiser's tax identification number/parcel number of the tax parcel to which the UERCS are to be transferred.
 - (iv) The identity and address of any other entity or person, corporate or natural, who has any interest in the property to which the UERCS will be transferred,

whether such interest is equitable or legal, including mortgage holders of record, if any.

- C. The owners of both parcels shall jointly submit an Application to Transfer UERCs in form and substance satisfactory to the District, which shall be executed by all parties with interest in the parcels, with the formality necessary to record a Deed in the Public Records.
- D. The owners of both parcels shall prepay, or cause to be prepaid all assessments allocated to those parcels, to the extent the current year's assessments have not been paid.
- E. The owner of the property from which the UERCs will be transferred shall provide evidence satisfactory to the District that there are no unpaid prior year assessments outstanding on the property from which ERCs are being transferred, and that there are no outstanding tax certificates associated with the property from which the UERCs are being transferred.
- F. The owners shall each pay, or cause to be paid, to the District, an application fee equal to the estimated amount of legal and engineering fees to be incurred due to the requested UERC transfer; which amount will be credited against the final amount of legal and engineering fees incurred. This is for the purposes of covering the District's administrative and professional services costs in reviewing and processing the Application.

4. Procedure to Transfer Utility Equivalent Residential Connections To the District

The owner of any tax parcel subject to assessments for UERCs shall have the right to make application to the District to transfer to the District UERCS held or possessed by such owner of a tax parcel or tax parcels within the District. Any such property owner who desires to transfer to the District UERCS held or possessed by such owner may make application therefor in the following manner:

- A. The owner of the property from which the UERCs will be severed and transferred shall provide an attorney's affidavit in certification of the following, which affidavit shall be submitted with the Application described below:
 - (i) The affidavit is given as an inducement to the District to transfer UERCs.
 - (ii) The identity of the record title holder to the tax parcel to which the UERCs are to be transferred, with a copy of the instrument by which the property owner acquired title, specifying the recording information within the Official Records of Collier County, Florida for that document.
 - (iii) The Collier County Property Appraiser's tax identification number/parcel

number of the tax parcel to which the UERCs are to be transferred.

(iv) The identity and address of any other entity or person, corporate or natural, who has any interest in the property to which the UERCs will be transferred, whether such interest is equitable or legal, including mortgage holders of record, if any.

- B. The owner shall submit an Application to Transfer UERCs in form and substance satisfactory to the District, which shall be executed by all parties with interest in the parcels, with the formality necessary to record a Deed in the Public Records. The Application shall describe the purposes and basis for the request and be accompanied by an economic analysis as to the impact on the District's utility system and the financial position of the District if the Application were to be approved.

5. District's Actions Upon Receipt of Application to Transfer Utility ERCS

Upon receipt of an Application to Transfer Utility ERCS (referred to as the "Application"), the District shall take the following actions:

- A. The District Manager shall transmit a copy of the Application to the District Engineer and the District Attorney.
- B. The District's Attorney will review the Application to determine whether all requirements of this rule have been satisfied and whether the Application is complete. Within ten (10) business days of receipt by the District's Attorney, the District's Attorney will notify the applicant in writing of any deficiency in the content of the Application. There is no time requirement imposed on the applicant to respond to this notice of deficiency. However, all time requirements imposed upon the District are tolled, until such time as an Application complying with these rules has been received by the District.
- C. The District's Engineer will review the Application to determine whether the infrastructure necessary to accommodate the capacity transferred to the receiving property is in place. Within ten (10) business days of receipt by the District's Engineer, the District's Engineer will notify the applicant of any infrastructure improvements the District's Engineer reasonably believes are necessary to accommodate the transferred capacity. Any infrastructure improvements shall be constructed at the cost of the Applicant. This review does not obviate any requirements imposed by Collier County for review of utility infrastructure in conjunction with any SDP, development order or land use

approvals, and is in addition to any review requirements imposed by the Department of Environmental Protection for permitting purposes. It is the intent of this section to provide for review of the District's primary infrastructure providing services to the site receiving the transferred UERCs.

- D. The District Manager shall schedule a hearing before the District's Board of Supervisors at a regularly scheduled meeting occurring within sixty (60) days of receipt of the Application.
- E. After review and consideration of the Application, the Board of Supervisors shall have the right to: deny or reject the Application and transfer; approve the Application transfer with modifications or conditions; or, approve the Application as submitted.

5.2 Method of Determining the Utility Equivalent Residential Connection(s) Necessary for new Development and existing entities to Utilize the District's Potable Water and Wastewater System. In addition, this is the policy for establishing the assessed benefits to all properties inside of the Port of the Islands Community Improvement District; Policy For Determination Of Utility Availability

5.2.1

- A. The District owns, operates and maintains potable water production and distribution facilities and wastewater collection and treatment facilities providing services to the properties within the boundaries of the District.
- B. Each property that is provided services by the District or which has the availability of services was assigned a specific number of Utility Equivalent Residential Units (UERCs) for utilities services (water and wastewater) as its allocation of capacity within the District's systems.
- C. The number of UERCs available in the District assigned to each property is established by the District Board and establishes a limit on the system capacity that the District can commit to each property within the District.
- D. From time to time the District is asked to provide a letter of utility concurrency to Collier County as part of the County's review of development projects within the District.
- E. The allocation of utility service between the various properties was based on a methodology that assigned a numerical equivalency (for utilities services purposes) between various types of development anticipated to incur on the property at the time that

the District was established, and the facilities were constructed. Other uses were assigned a portion of a UERC based upon the original methodology of usage.

General Fund supported operations include, but are not limited to most non-water and sewer operations, including road maintenance, irrigation, CID common area landscape maintenance, storm water, and general administrative expenses. The General Fund benefits received by properties in the District will be determined by an assessment methodology adopted by the Board.

F. A single-family residential unit was assigned the value of 1.0 UERC. The following table identifies the equivalency of planned uses compared to that for a single-family residential unit.

ENTITY	Water/Sewer
Single Family Residential Unit	1.0 UERC
Multifamily Residential Unit	0.8 UERC
Recreational Vehicle Residential Unit	0.4 UERC
Hotel Room or Suite	0.6 UERC
Restaurant Seat	0.2 UERC
Bar or Cocktail Lounge Seat	0.08 UERC
Standard up to 40' Marina Slip (water supply only)	0.08 UERC
Marina Slip (Water and Sewer) up to 40'	0.2 UERC
Larger Boat Slips, 40' plus	0.4 UERC
Sanitary Pump Out Station – To be determined by Engineer based on formal proposal.	

A property owner may propose a use for their property that was not considered in the original determination of equivalency.

5.2.2

A. Prior to providing a letter of utility availability to Collier County on behalf of any of the properties served by the systems owned by the Improvement District, the District will review the proposed site development plan and determine whether the anticipated system demands from the proposed development exceed the system capacity reserved for the property.

B. The amount of utility system capacity necessary to support a single-family residential unit is assigned the value of 1.0 UERC. The table above in 5.2.1.F

identifies the numerical relationship between other uses as compared to that for a single-family residential unit.

C. In the event that future development is proposed that involves types of development other than those identified above then an evaluation of the numerical equivalency of each of the proposed additional types of development will be performed by the District's Engineer of Record. The District's Engineer of Record will utilize Chapter 64E-6.008 (Table 1) with an effective date of May 24, 2004 in performing this evaluation. For the purpose of establishing the definition of a single ERC, a dwelling with 3 bedrooms as identified in Chapter 64E-6.008 (Table 1) as requiring 300 gallons per day is equal to 1.0 UERC. The number of gallons per day identified in Chapter 64E6.008 (Table 1) for an identified type of establishment will be divided by 300 in order to determine the numerical equivalency of that type of establishment as compared to a single-family residential unit. In some cases, engineering judgment will be necessary to accommodate types of establishments that may not be specifically included in Chapter 64E-6.008 (Table 1) or proposed facilities that may combine functions associated with multiple types of establishments as identified in Table 1.

D. Any modifications to docks and boat slips may result in change in water/sewer utility assessments. Engineer shall utilize the following references in forming his opinion relative to boat sizes associated with slips, as deemed appropriate.

- "Design: Small Craft Berthing Facilities," UFC-4-152-07 (14 July 2009, change 1 September 2012), Department of Defense.
- "Guidelines for Marina Berthing Facilities," (July 2005), State of California.

E. In the event that the owner of a subject property does not agree with the evaluation performed by the District Engineer then they may petition the District's Board of Supervisors and present evidence for an alternative assessment for the proposed type of establishment to be developed.

F. This rule and the determination of utility capacity is not intended to and does not affect the number of "ERCs" assigned to a property for purposes of allocating operation and maintenance expense or the apportionment of the duty to pay any non-ad valorem special assessments for operations and maintenance or debt service. Whether a property utilizes any or all the utility capacity assigned to the property or not it will continue to be subject to the same level of non-ad valorem assessments, unless and until a transfer of ERCs is made from one property to another and the District's Board of Supervisors accepts an amended methodology reapportioning the duty to pay the assessments.

Section 6 CROSS-CONNECTION CONTROL PLAN FOR THE DISTRICT'S WATER UTILITIES

6.1. Introduction

A. Goal

The District drinking water system has the responsibility to supply safe water to each and every consumer under foreseeable circumstances. Each instance where water is used so as to create the possibility of backflow threatens the health and safety of our consumers. Such situations may result in the public water system becoming a transmitter of disease organisms, toxic materials or other hazardous substances, which may adversely affect large numbers of people. The only protection against such occurrences is the elimination of such cross-connections or the isolation of such hazards from the water supply lines by properly installed, approved backflow prevention devices.

B. Plan of Action

The District's Port of the Islands Utility (Utility) is determined to take every reasonable precaution to see that cross-connections are not allowed to contaminate the water being distributed to its consumers. The Cross-Connection Control Plan initially adopted effective as of January 27, 2006 is designed to control cross-connections within the area served by the water system.

Auxiliary water is any water supplied from a source other than the community water system serving the premises, such as from a lake, river, pond, stream, well, spring, harbor, reclaimed water, or industrial fluids.

Auxiliary water on a premise of any type (commercial or residential) can present a hazard to the community water system. If auxiliary water is present on a premise, the appropriate backflow prevention device must be installed. The fire/irrigation system in Port of the Islands is one example of an auxiliary water system. All Utility consumers that are served by the fire/irrigation system must have the appropriate backflow prevention device.

All public areas to be irrigated with reclaimed water will be posted with warning signs notifying the public that irrigation water is not safe for potable use.

This plan is intended to be a practical guide for safeguarding the quality of water from becoming contaminated or polluted through backflow. The Utility intends to install appropriate backflow prevention devices in areas where there is an actual or verified potential hazard to the community water system. The Utility shall own, install, test and maintain any backflow prevention assemblies required to be installed by this plan.

6.2 Authority For Controlling Cross-Connections

Chapter 62-555.360, Florida Administrative Code, requires community water systems, and all public water systems that have service areas that are also served by reclaimed water to establish and implement a routine cross-connection control program. This program prohibits cross-connections within the water system, authorizes the water system to make inspections of the consumers' premises, requires that cross-connection hazards be corrected and provides for enforcement. This program expresses a clear determination on the part of the Utility that the water system is to be operated free of cross-connections that endanger the health and safety of those depending upon the public water supply.

Specific Authority: 190.011(5); 190.012; 190.031
Law Implemented: 190.011(5); 190.012; 190.031

6.3 Program To Be Pursued

The Utility has established an ongoing cross-connection control program. This program is to be a continuing-effort to locate and correct all existing cross-connection hazards, and to discourage the creation of new problems. These efforts will involve residential and commercial consumers, and piping and building contractors in Port of the Islands. Safeguarding the quality of water being distributed to our consumers is a high priority concern of the Utility. The Board of the District shall adopt by resolution, policies, practices and procedures for the continued implementation and enforcement of the District's ongoing cross-connection control program.

A. Consumers Responsibility

The consumer is responsible for immediately notifying the District if the backflow prevention assembly is observed to be either malfunctioning or damaged

B. Enforcement

Where cross-connections are found to exist, the District will require the cross-connection(s) to be eliminated, or isolated by a properly installed, approved backflow prevention device. Such protective measures will include, where internal corrections do not fully protect the water system, a backflow protection device on the consumer's water service line after the meter and ahead of any water outlets. Every effort will be made to secure the voluntary cooperation of the consumer in

correcting cross-connection hazards. If voluntary corrective action cannot be obtained within a reasonable period of time, water service will be discontinued, for the protection of the public health and safety.

C. Existing Devices

All existing backflow prevention devices that were installed as of January 27, 2006 that do not meet the requirements of the Cross-Connection Control Plan but that were approved assemblies at the time of installation, and that have been properly maintained, shall be exempt from the construction standards of the Cross-Connection Control Plan provided that any such devices will satisfactorily protect the community water system. Whenever any such existing assembly is moved from its present location or requires replacement, an approved backflow prevention assembly meeting all of the requirements of this plan shall replace the assembly.

Section 7 WATER RESTRICTION SURCHARGE

In addition to the rates, fees and charges imposed as outlined in Schedules “A”, “B”, “C” and “D”, during periods when Collier County imposes Water Restriction Surcharges in conjunction with the South Florida Water Management District Water Shortage Plan, the District will also impose Water Restriction Surcharges in order to promote additional levels of water conservation. The amount of the surcharge shall be calculated by taking the consumption charge as determined using the conservation rates for the appropriate consumer class outlined in the schedules of rates, fees and charges in Schedules “A”, “B”, “C” and “D”, and multiplying times the appropriate "flow charge rate adjustment percentage". This amount will then be added to the consumer's irrigation bill during these periods of declared water shortage.

Water Shortage Phase	Percent Reduction Goal In Overall Demand	Flow Charge Rate Adjustment Percentage
Phase 2-Severe	30%	15%
Phase 3-Extreme	45%	30%
Phase 4-Critical	60%	40%

Adjustments to the Flow Charge Rate Adjustment Percentage are effective the first day of the billing cycle following the South Florida Water Management District notification.

Section 8 SIGNAGE

8.1. Purpose and Intent:

- (a) It is the intent and purpose of this rule, and it shall be interpreted, to promote the health, safety, convenience, aesthetics, and general welfare of the community by controlling signs which are intended to communicate to the public and to authorize the use of signs which are:
- (b) Compatible with their surroundings;
- (c) Designed, constructed, installed and maintained in a manner which does not endanger public safety or unduly distract motorists;
- (d) Appropriate to the type of activity to which they pertain;
- (e) Are large enough to convey sufficient information and small enough to satisfy the needs for this rule;
- (f) Reflective of the identity and creativity of the community.

8.2. Unapproved Signs on Property Owned by the Port of the Islands Community Improvement District Prohibited.

- (a) All signs erected on property owned by the Port of the Islands Community Improvement District must be approved by the Board of Supervisors.
- (b) Any sign erected on property owned by the Port of the Islands Community Improvement District without approval of the Board of Supervisors are prohibited and shall be subject to immediate removal without compensation to the owner of the sign.
- (c) All signs presently existing on property owned by the Port of the Islands Community Improvement District must be removed within ten (10) days of the effective date of this Rule.

8.3. Approval Process

- (a) Prior to erecting any sign on property owned by the Port of the Islands Community Improvement District, the person proposing the sign shall submit a detailed graphic depiction of the proposed sign showing the location, dimensions and content of the sign.
- (b) All signs must be consistent with the community appearance and include the "Heron and Sunset" logo.
- (c) The submitted graphic depiction shall be included in the next regular Board of Supervisors meeting agenda for consideration.
- (d) Approval shall be by majority vote of the Supervisors present and

constituting a quorum.

8.4. Exempt Signs

- (a) All signs owned and maintained by the Port of the Islands Community Improvement District or Collier County.
- (b) Traffic signs.
- (c) Neighborhood identification signs including only the "Heron and Sunset" logo and the name of the neighborhood provided that the sign is limited to fifteen square feet in size and four feet in height.
- (d) Any existing exempt sign not in compliance with the size and content requirements must be brought into compliance with the size and content requirements within the earlier of:
 - (i) Two (2) years of the effective date of this Rule or
 - (ii) The time the sign is substantially repaired or replaced due to wear, tear or other damage.

Specific Authority: 190.011(5); 190.012

Law Implemented: 190.011(5); 190.012