



# EXECUTIVE COMMITTEE MEETING AGENDA

**October 19, 2023**

**1:00pm – 2:00pm**

**In Person and Virtual Meeting**

**Join Zoom Meeting:**

**<https://cityftmyers.zoom.us/j/83165014074?pwd=yMewr3l7xaHuLn0ovh420tx1KVB6io.1>**

**Join by phone: 1-929-205-6099**

**Meeting ID: 831 6501 4074**

**Passcode: 457932**

***Mission Statement:***

*To work together across neighboring communities to consistently protect and improve the unique and relatively unspoiled character of the physical, economic and social worlds we share...for the benefit of our future generations.*

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|-----------|--|
| <b>1</b>  | <b>INVOCATION</b>                      |
| <b>2</b>  | <b>PLEDGE OF ALLEGIANCE</b>            |
| <b>3</b>  | <b>ROLL CALL</b>                       |
| <b>4</b>  | <b>PUBLIC COMMENTS</b>                 |
| <b>5</b>  | <b>AGENDA</b>                          |
| <b>6</b>  | <b>INTERLOCAL AGREEMENT AND BYLAWS</b> |
| <b>7</b>  | <b>NEW BUSINESS</b>                    |
| <b>8</b>  | <b>STATE AGENCIES COMMENTS/REPORTS</b> |
| <b>9</b>  | <b>COUNCIL MEMBERS' COMMENTS</b>       |
| <b>10</b> | <b>ADJOURN</b>                         |

Two or more members of the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program may be in attendance and may discuss matters that could come before the Peace River Basin Management Advisory Committee and Charlotte Harbor National Estuary Program, respectively, for consideration.

In accordance with the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this meeting should contact the Southwest Florida Regional Planning Council 48 hours prior to the meeting by calling (844) 988-8244; if you are hearing or speech impaired call (800) 955-8770 Voice/(800) 955-8771 TDD.

## Executive Summary

**Meeting Date:** Meeting November 19, 2020

**Submitted by:** Commissioner Bill McDaniel

**RE:** Southwest Florida Regional Planning Council Interlocal Agreement and By-Laws

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**OBJECTIVE:** To reconstitute and rebrand the Southwest Florida Regional Planning Council (SWFRPC) by repealing the existing Interlocal Agreement and the existing By-Laws and replacing them with an Interlocal Agreement that is consistent with State Statutes and a corresponding set of By-Laws, while the six member counties work on establishing the relevancy of the SWFRPC.

**BACKGROUND:**

Attached as Exhibit A are the existing Interlocal Agreement adopted November 8, 1973 and an Amendment adopted in October 1980. The existing By-Laws are attached as Exhibit B. The existing Interlocal Agreement as well as the current By-Laws are inconsistent with State Statutes. A document attached as Exhibit C explains the history of the Interlocal Agreement and compares it to the By-Laws and the Florida Statutes.

- The original Interlocal Agreement creating the Southwest Florida Regional Planning Council was adopted November 8, 1973 but was not recorded.
- On June 6, 1974 an Amendment to Interlocal Agreement was adopted to revise final date of budget approval from June 1 to August 15.
- On June 27, 1974 an Amendment to the Interlocal Agreement was adopted to provide for alternate voting members, the checks to be signed by the Treasurer, the meeting date moved to the first Thursday of the month, and for special meetings to require 24-hour notice.
- On August 1, 1974 the By-Laws for the Southwest Florida Regional Planning Council were adopted.
- On January 18, 1976 the Regional Planning Council board agrees to changed meeting date to third Thursday of month and to hold meetings at the Holiday Inn.
- On February 5, 1976 an Amendment to the Interlocal Agreement (that was presented at the 1/18/76 meeting) was adopted that removes meeting day from the Interlocal Agreement and provides wording changes.
- In October 1980 an Amendment to the Interlocal Agreement was adopted that changed the requirement for approval of amendments to the Interlocal Agreement from 3/4 of voting members to 2/3 of voting members and majority (4) of principal members;

changes 15-day notice of amendments to 7 days; and added the 9 governor appointees or ½ of total voting members to the membership.

- In 2004 the 1973 original Interlocal Agreement along with the 1976 and 1980 amendments were recorded by all counties to facilitate the purchase of the building on Victoria Avenue in Ft. Myers.

### **CONSIDERATION:**

In 1993 the State Legislature removed the DRI Appeal Authority from the statutes. The Appeal Authority allowed the RPCs to appeal to the Florida Land and Water adjudicatory Commission which is the governor and cabinet. Losing the DRI Appeal Authority meant that the RPC recommendations were advisory and the “teeth” in the recommendations were lost. Then in 2015, the legislature eliminated the requirement that a DRI be subject to the state coordinated review process, thereby removing the DRI process from the RPCs authority. A number of legislative changes over the years have weakened the RPC land use advisory ability.

In an effort to bring the Interlocal Agreement into compliance with the State Statutes, I am recommending that the current Interlocal Agreement be repealed and replaced with the Replacement Interlocal Agreement attached as Exhibit D. The Replacement Interlocal Agreement is consistent with State Statutes. Additionally, the existing By-Laws should be repealed and the Replacement By-Laws that are consistent with the Replacement Interlocal Agreement be adopted. The Replacement By-Laws are attached as Exhibit E.

### **LEGAL CONSIDERATIONS:**

1. Termination and adoption of a new interlocal agreement must be done by the county commissions of the six counties. The RPC can recommend that the existing Interlocal be terminated and that the replacement interlocal be adopted but it is the County Commissions that must approve the Interlocal Agreement.
2. Termination may only occur concurrent with a subsequent Interlocal Agreement being adopted due to the requirement of Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor’s designation of Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

### **RECOMMENDATIONS:**

- That the members of the Southwest Florida Regional Planning Council recommend to the six counties that comprise Comprehensive Planning District IX that the existing Interlocal Agreement be terminated and the Replacement Interlocal and Replacement By-Laws be adopted and further

- That the SWFRPC members meet monthly to reconstitute and rebrand the SWFRPC including a new Mission Statement and By-Laws.

**ATTACHMENTS:**

- Exhibit A: The existing Interlocal Agreement adopted November 8, 1973 and an Amendment adopted in October 1980
- Exhibit B: Existing By-Laws
- Exhibit C: History Summary of the Interlocal Agreement
- Exhibit D: Replacement Interlocal Agreement
- Exhibit E: Replacement By-Laws

# Exhibit A

## INTERLOCAL AGREEMENT CREATING THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

THIS AGREEMENT, made and entered into this 8th day of November, 1973, pursuant to the authority of Section 163.01, Florida Statutes, by and between CHARLOTTE COUNTY, COLLIER COUNTY, GLADES COUNTY, HENDRY COUNTY, LEE COUNTY and SARASOTA COUNTY, each being a political subdivision of the State of Florida,

WITNESSETH:

WHEREAS, the continuing "Comprehensive State Planning" process described by Chapter 23 of the Florida Statutes includes, but is not limited to the following areas of regional and Local Development and concern:

1. Economic Development, including agriculture, industry and commerce;
2. Natural Resources Development, including oceanic and water resources, fish and wildlife, parks and recreation, pollution and environmental health;
3. Social Development, including housing, employment, education, mental and physical health and social welfare, and cultural development, public utilities and services;
4. Transportation Development, including provisions for airports, highways, roads and waterways;
5. Public and Industrial Safety, including the prevention and suppression of fires, explosions and unsafe conditions and practices including the prevention of crime, identification, custody and correction of criminals and those criminally inclined:

WHEREAS, the Environmental Land and Water Management Act, Chapter 380 of the Florida Statutes, grants to Regional Planning Agencies the right and duty to study, review and make recommendations concerning "Areas of Critical State Concern" and "Developments of Regional Impact" to local governments and through the Division of State Planning to the Governor and the

Cabinet, and

WHEREAS, Rule 22E-1.01 of the Florida Administrative Code requires every State Board, Department, Commission, District, Agency, County and Municipality Agency created by Florida Statutes or laws, except judicial or legislative circuits and districts, to use the ten (10) multi-county regional planning district boundaries to prepare regional studies, reports and plans and for programs and budgets, including but not limited to comprehensive planning and land and water management, and

WHEREAS, the Division of State Planning is responsible for conducting a "continual process of State Comprehensive Planning" by considering studies, reports and plans of each Federal, State, Regional and Local Governmental Department, Agency, Institution and Commission and considering existing and prospective resources, capabilities, and needs of State and Local governments based upon the best available data to establish goals, objectives and policies for the long-range guidance for orderly social, economic, and physical growth of Florida, and

WHEREAS, "Comprehensive Regional Planning Districts" are an integral part of "State Comprehensive Planning" as established by Part I of Chapter 23 of the Florida Statutes, and

WHEREAS, the parties hereto desire to make the most efficient use of their powers to cooperate for mutual advantages to provide services and facilities in an effort to optimize the employment of geographic human, economic and natural resources in an effort to optimize economic, natural resources, social, land use, transportation and public safety development, and

WHEREAS, Section 163.01(4) of the Florida Statutes provides "a public agency of the State of Florida may exercise jointly with any other public agency of the State, or any other State or of the United States Government any power, privilege, or authority which such agencies share in common and which each might

exercise separately."

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises, covenants, benefits to accrue and agreements herein contained and set forth, the parties signatory hereto do hereby establish the "Southwest Florida Regional Planning Council", hereinafter referred to as Council a separate legal entity, and do further agree as follows:

1. Purpose: The purpose of this Agreement is:
  - a. To provide a means of exercising the rights, duties and powers of a Regional Planning Agency set forth by Chapters 23, 163 and 380 of the Florida Statutes, including those functions enumerated hereinabove by preambles, and other applicable Florida, Federal and Local law.
  - b. To serve as a regional coordinator for the members of the Region.
  - c. To exchange, interchange and review various programs of the individual members which have a relationship to regional problems.
  - d. To promote communication between the members for the conservation and compatible development of the member counties.
  - e. To cooperate with Federal, State, Local and non-governmental agencies to accomplish these objectives.
2. Effective Date, Duration, Termination and Withdrawal:
  - a. The principle member units of the Region shall be the Charlotte, Collier, Glades, Hendry, Lee and Sarasota Boards of County Commissioners.
  - b. This agreement shall continue from year to year without the necessity of a formal renewal by any party hereto, unless terminated as hereinafter provided.
  - c. Amendments to this agreement, except as to its membership provisions, shall be made effective by an affirmative vote

of a majority of the voting members of the Council. Changes in membership provisions shall require a majority of the principal member units. Any amendment to this agreement shall be submitted, in writing, to each regular voting member at least seven (7) days prior to the meeting at which such amendment is to be voted upon.

d. Any party hereto or principal member unit may withdraw its membership by resolution duly adopted by its governing body, and upon giving twelve (12) months written notice of withdrawal to the chairman of the governing body of each other principal member unit without the effect of terminating this agreement. Contractual obligations of the withdrawing member shall continue until the effective date of the withdrawal. All property, real or personal, of the Region on the effective date of withdrawal shall remain the property of the Region and the withdrawing principal member unit shall have no right thereto.

e. In the event there is a complete termination of this agreement which would involve the disposition of the property of the Council, such property shall be liquidated and each principal member unit shall be entitled to a share of the proceeds bearing the same ratio to the total proceeds as the contribution of the principal member bore to total contributions made by all principal member units during the preceding fiscal year of the Region.

f. In case of a complete termination of this agreement, the non-Federal matching contribution to any approved Federal grant shall be firm, the project shall be completed and the required reports and accounting shall be completed.

g. This agreement may be terminated at any time by resolution duly adopted by the governing body of each principal member unit.

3. Membership: Each principal member unit as defined in Article 2(a) above shall be represented by one alternate and three (3) regular voting members of whom two (2) regular voting members will be members of the elected governing body of the principal member unit and the third a regular voting member of the elected governing body of a municipal corporation located within the boundaries of the principal member unit appointed after seeking the recommendation of the governing bodies of all municipalities within the County. Each voting member shall to be appointed by the governing body of the appropriate principal member unit. Each appointed member shall serve at the pleasure of the appointing Board of County Commissioners. An alternate shall be eligible to vote in the absence of a regular voting member.

4. Officers: The officers of the Region shall consist of the following:

- a. A Chairman, who shall serve as Chairman of the Council. He shall be an ex-officio member of all subsidiary committees and boards.
- b. A Vice-Chairman, who shall act for the Chairman in his absence. He shall also perform such other functions as the members, from time to time, shall assign.
- c. A Secretary, who shall conduct the correspondence of the Council, approve minutes of the meetings, be custodian of the records, keep the roll of all members and discharge such other duties as may be assigned by the Chairman or the members.
- d. A Treasurer, who shall supervise the financial affairs of the corporation and perform such other duties as usually pertain to that office.
- e. The officers of the Region shall be elected at the annual meeting of the Region and shall hold office for a term of one (1) year or until their respective successors are elected and qualified.

5. Meetings:

- a. The annual election of officers shall be held during the regular January meeting in each year.
- b. Regular meetings shall be held on the days and times established by the Council.
- c. Special meetings may be called by the Chairman at his discretion and shall be called by the Chairman when requested by one (1) voting member from each of two-thirds (2/3) of the principal member units.
- d. The place and time of each meeting shall be determined by the membership prior to the adjournment of the previous meeting. In the absence of such a determination, the time and place of meetings shall be determined by the Chairman.
- e. A quorum at any meeting shall consist of a majority of the voting members present provided, however, no quorum shall exist unless a voting member is present from each of more than one-half (1/2) of the principal member units. When a quorum has been determined to be present, a majority of those present and voting may take action on all matters presented at the meeting. Each member present shall vote on each question presented to the Council except in the event he disqualifies himself. Proxy voting is prohibited.
- f. The Secretary or his nominee shall keep minutes of each meeting and distribute a copy thereof to each voting member.

6. Finances:

- a. On or before August 15th of each year, the Region shall adopt a budget and certify a copy thereof to the Clerk of the governing body of each principal member unit. Upon approval thereof by the governing body of the principal member unit, each principal member unit shall include in its annual budget and cause the levy of a millage sufficient to produce an amount sufficient to fund the proportionate share of each principal member unit of the Region's budget.

- b. The fiscal year of the Region shall commence on the first day of October and end on the last day of September in each year.
- c. The Region shall have the right to receive and accept in furtherance of its functions, funds, grants and services from federal, state and local governments or their agencies and from private and community sources, and to expend therefrom such sums of money as shall be deemed necessary from time to time for the attainment of its objectives.
- d. The proportionate share of the budget of the Region shall be an amount which bears the same ratio to the total budget as the population of each principal member unit bears to the total population of Region, all as determined annually by the Department of Administration pursuant to Section 23.019, Florida Statutes, for the year preceding each budget determination.
- e. The contribution of each principal member unit shall be thirty cents (30¢) per capita of the population of the principal member unit according to the last available determination under Section 23.019.
7. Powers: The Region shall have all powers granted by law, including without limiting the generality of the foregoing:
- a. The powers granted by Chapters 23, 163 and 380 of the Florida Statutes as now existing or as, from time to time, are amended.
- b. To adopt rules of policy and procedure and by-laws, to regulate its affairs and conduct business.
- c. To adopt an official seal.
- d. To maintain an office at such place within the Region as may from time to time be determined.
- e. To employ staff members and consultants, including an executive director, planning specialists, clerical personnel,

- attorneys, engineers and other specialists as the Council deems necessary and desirable to the performance of its duties and exercise of its rights and powers.
- f. To utilize staff members employed by principal member units as agreed by the principal member unit and determined by the Council to be desirable to solve regional and local problems and establish Council policies.
  - g. To hold public hearings and sponsor public forums whenever deemed necessary or useful in the execution of the functions of the Council.
  - h. To acquire, own, operate, maintain, lease and sell real or personal property and hold title thereto in the name of the Council.
  - i. To fix and determine by resolution rules and regulations relating to advertisement for bids, manner of bidding and a maximum amount, below which same will not be required.
  - j. To sue and be sued, implead and be impleaded, complain and defend, in all courts and before all administrative boards.
  - k. To receive and accept from any Federal or State agency and institutions grants for, or in aid of, the purposes of the Council.
  - l. To make and enter into all contracts and agreements, and do and perform all acts and deeds necessary and incidental to the performance of its duties and the exercise of its powers.
  - m. To incur debts, liabilities and obligations which are not the debts, liabilities or obligations of any of the parties to this Agreement.
8. It is expressly understood that the terms and conditions of, and this Agreement, shall be effective between and among those parties signatory hereto; and that the validity, force and effect of their Agreement shall not be affected by one or more of the

parties named hereinabove not joining in this Agreement, any other provision of this Agreement to the Contrary notwithstanding.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and their signatures to be affixed on the day and year first above written.

BOARD OF COUNTY COMMISSIONERS  
CHARLOTTE COUNTY, FLORIDA

By /S/ DOROTHY FLOWERS  
Chairman

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

/S/ RUSS WIMER  
Chairman

BOARD OF COUNTY COMMISSIONERS  
GLADES COUNTY, FLORIDA

By /S/ TOMMY BRONSON  
Chairman

BOARD OF COUNTY COMMISSIONERS  
HENDRY COUNTY, FLORIDA

/S/ C. E. HALL  
Chairman

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA


By /S/ R. H. WHAN  
Chairman

BOARD OF COUNTY COMMISSIONERS  
SARASOTA COUNTY, FLORIDA

/S/ WILLIAM A. MUIRHEAD  
Chairman

CERTIFICATE

This is to certify that the attached Interlocal Agreement is a true and accurate copy of the original maintained in my file and that each Board of County Commissioners has duly passed and executed a Resolution approving the attached Interlocal Agreement as indicated by the facsimile signatures affixed thereto.

  
ROLAND EASTWOOD  
EXECUTIVE DIRECTOR  
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

AMENDMENT TO AGREEMENT  
CREATING THE SOUTHWEST FLORIDA REGIONAL  
PLANNING COUNCIL

THIS AGREEMENT, by and between CHARLOTTE COUNTY, COLLIER COUNTY, GLADES COUNTY, HENDRY COUNTY, LEE COUNTY and SARASOTA COUNTY, each being a political subdivision of the State of Florida, and hereinafter collectively referred to as "the COUNTIES",

WITNESSETH:

WHEREAS, the COUNTIES entered into an interlocal agreement on November 8, 1973, pursuant to Section 163.01, Florida Statutes, to create the SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL, said agreement hereinafter referred to as "the Interlocal Agreement"; and

WHEREAS, Chapter 80-315, Laws of Florida, requires certain modifications to the Interlocal Agreement in order for the SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL to continue to exercise its responsibilities under Chapter 23, 163 and 380, Florida Statutes; and

WHEREAS, it is the intent of the COUNTIES by entering into this amendment to the Interlocal Agreement to comply with the provisions of Chapter 80-315, Laws of Florida.

NOW, THEREFORE, FOR AND IN CONSIDERATION on the mutual promises, covenants, benefits to accrue and agreements herein contained and set forth, the COUNTIES signatory hereto do agree to the following amendments to the Interlocal Agreement to comply with the provisions of Chapter 80-315, Laws of Florida:

1. Paragraph 1.a. of the Interlocal Agreement is amended to read as follows:

1. a. To provide a means of exercising the rights, duties and powers of a Regional Planning Agency set forth by Chapters 23, 160, 163 and 380 of the Florida Statutes, including those functions enumerated hereinabove by preambles, and other applicable Florida, Federal and Local law.

2. Paragraph 2.c. of the Interlocal Agreement is amended to read as follows:

2. c. Amendments to this agreement, except as to its membership provisions, shall be made effective by an affirmative vote not less than two-thirds of the voting members of the Council. Changes in membership provisions shall require consent of a majority of the principal member units in addition to the two-thirds vote of the members of the Council. Any amendment to this agreement shall be submitted, in writing, to each regular voting member at least seven (7) days prior to the meeting at which such amendment is to be voted upon.

3. Paragraph 3 of the Interlocal Agreement is amended to read as follows:

3. Membership: At least eighteen voting members shall be elected County Commissioners or City Councilmen. Each principal member unit as defined in Article 2(a) above shall be represented by three voting members of whom two voting members will be members of the elected governing body of the principal member unit and the third a voting member of the elected governing body of a municipal corporation located within the boundaries of the principal member unit chosen by all municipalities within the County. In addition, the Governor of the State of Florida shall appoint representatives to the Regional Planning Council equalling one-half of the total of members appointed by the member counties and municipalities. These appointments shall be citizens of the Region and no two appointees of the Governor shall have their residences in the same county until each county within the Region is represented by a Governor's appointee.

4. Except as amended herein, the COUNTIES ratify and affirm the provisions of the Interlocal Agreement dated November 8, 1973.

IN WITNESS WHEREOF, the COUNTIES have caused the Agreement to be executed and their signatures to be affixed on the day and year indicated below their respective signatures.

Attest:

Buddy C. Alexander, Clerk of  
Circuit Court and Ex-  
Officio Clerk to the Board  
of County Commissioners of  
Charlotte County, Fl

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By: Buddy C. Alexander  
Deputy Clerk

By: Paul G. Foy  
Chairman

Date: October 28, 1980

ATTEST:

William J. Reagan, Clerk of  
Circuit Court and Ex-  
Officio Clerk to the Board  
of County Commissioners of  
Collier County, FL

By: William J. Reagan  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By: Clifford L. Lenzel  
Chairman

Date: October 7, 1980

ATTEST:

Jerry L. Beck, Clerk of  
Circuit Court and Ex-  
Officio Clerk to the Board  
of County Commissioners of  
Glades County, FL

By: Jerry L. Beck  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF GLADES COUNTY, FLORIDA

By: Vernon L. Lister  
Chairman

Date: 10-13-80

ATTEST:

Charlotte R. Fitzsimmons,  
Clerk of Circuit Court and  
Ex-Officio Clerk to the Board  
of County Commissioners of  
Hendry County, Florida

By: Charlotte R. Fitzsimmons  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF  
HENDRY COUNTY, FLORIDA

By: Donald C. Pratt  
Chairman

Date: Oct. 14, 1980

ATTEST:

Sal Geraci, Clerk of  
Circuit Court and Ex-  
Officio Clerk to the Board  
of County Commissioners of  
Lee County, Florida

By: Betty L. LaCasse  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: K. L. Steele  
Chairman

Date: Oct 1, 1980

ATTEST:

R. H. Hackney, Jr., Clerk of  
Circuit Court and Ex-  
Officio Clerk to the Board  
of County Commissioners of  
Sarasota County, Florida

By: R. H. Hackney Jr.  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF SARASOTA COUNTY, FLORIDA

By: James D. Dodder  
Chairman

Date: Oct 31, 1980

APPROVED AS TO FORM

By: Thomas M. Brundette  
OFFICE OF COUNTY ATTORNEY

## Exhibit B

### SWFRPC ADOPTED BY-LAWS

#### **29I-1.001 Name and Scope.**

The name of this agency is the Southwest Florida Regional Planning Council (SWFRPC, or “Council”), a voluntary association of counties and cities formed as of November 8, 1973, under the laws of Florida and comprising the 9th Comprehensive Regional Planning District as provided for by the Florida Statutes.

*Rulemaking Authority 186.502, 186.504(6), 186.505(2) FS. Law Implemented 186.504 FS. History–New 2-9-76, Formerly 29I-1.01, Amended 5-14-09.*

#### **29I-1.002 Purpose.**

(1) Purpose. The purposes of the Southwest Florida Regional Planning Council shall be:

(a) To provide a means to permit local governmental units to make the most efficient use of their powers to cooperate for mutual advantages in order to provide services and facilities that will accord best with geographic, economic, social, land use, transportation, public safety resources and other factors influencing the needs and development of local communities within Planning District No. 9;

(b) To serve as a regional coordinator for the local governmental units comprising the planning district;

(c) To exchange information on and review programs of region concerns;

(d) To promote communication between the local governments for the conservation and compatible development of the Southwest Region;

(e) To cooperate with Federal, State and local government and non-government agencies to accomplish regional objectives; and

(f) To do all things authorized for a Regional Planning Agency under Chapters 163, 186 and 380, F.S., and other applicable Florida, Federal and Local Laws, rules and regulations.

(2) Mission. It is the mission of the Council:

To work together across neighboring communities to consistently protect and improve the unique and relatively unspoiled character of the physical, economic and social worlds we share for the benefit of our future generations.

*Rulemaking Authority 186.505(1) FS. Law Implemented 186.502 FS. History–New 2-9-76, Amended 7-18-82, Formerly 29I-1.02, Amended 5-7-92, 5-14-09.*

#### **29I-1.003 Staff Functions; General Description.**

The Council shall appoint an Executive Director who shall have the responsibility for the general management of the affairs of the Council, subject to the governing laws of the State and such regulations as may be adopted by the Council.

(1) The Executive Director shall annually prepare a budget for the Council and transmit the Council’s budget request to the member governmental units.

(2) The Executive Director shall be responsible for the general management of the Council’s office, for assisting the Secretary of the Council in the recording and maintenance of Council minutes and other documents of record, for any moneys received on behalf of the Council, for the keeping of financial statements in such form and in accordance with such procedures as shall be required by the Treasurer.

(3) The Executive Director may appoint and discharge any employee or subordinates in accordance with the policies of the Council and applicable Federal and Florida Statutes and regulations, and shall fix compensation within such limits as may be provided by the approved Council budget.

(4) The Executive Director may make agreements on behalf of the Council in performing the duties entrusted to him/her and shall attest all necessary instruments.

*Rulemaking Authority 186.505(1), 186.505(4) FS. Law Implemented 186.505 FS. History–New 2-9-76, Formerly 29I-1.03, Amended 5-7-92, 5-14-09.*

#### **29I-1.004 Council Membership and Appointments, Term of Service, Vacancies, Removal from Office.**

##### **(1) Membership and Appointments.**

(a) The Council shall include the Counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota, each of which shall be represented on the Council by two voting representatives appointed by their respective Board of County Commissioners.

(b) All municipalities within each county shall select one representative of one of the municipalities within the county who will be a voting representative.

(c) Further, each city has the option to be a member local government and to appoint one representative from the city's governing board; cities taking this option shall not participate in the process in (b) above.

(d) The representative(s) to the Council from each member local government shall be the elected chief representative of said local government or a member of its governing body chosen by such body to be its representative.

(e) Changes in membership provisions shall require a two thirds vote of the members.

##### **(2) Terms of Service.**

(a) Council members shall serve, and may be reappointed, at the pleasure of the appointing authority for terms not to exceed 3 years.

(b) Member governments may appoint alternate representative(s) to the Council. Alternate representative(s) shall be the chief elected official of said local government or a member of its governing body chosen by such body to be its alternate representative.

##### **(3) Vacancies.**

Any vacancy shall be filled for the unexpired term in the same manner as the initial appointment.

##### **(4) Removal from Service.**

Should a Council member have three consecutive unexplained absences from regular Council meetings, the Council shall so advise the appropriate appointing authority and request another appointment. Voting representatives will continue to occupy their offices until the Council is notified in writing of their replacement.

*Rulemaking Authority 186.502, 186.505(1) FS. Law Implemented 186.504 FS. History—New 2-9-76, Amended 2-20-77, 7-18-82, Formerly 29I-1.04, Amended 5-4-88, 3-1-95, 5-14-09.*

#### **29I-1.005 Officers, Term, Duties, Committees.**

(1) The regular January monthly meeting shall include electing from the regular membership officers with duties as follows:

(a) Chair – The Chair shall be the Chief Executive Officer, responsible for executing contracts for the Council, for overseeing the organization of the work of the Council, for seeing that all policy decisions of the Council are carried out, and for such other executive level functions as the Council shall assign. Except as provided for elsewhere, the Chair shall serve as a non-voting member of each advisory committee.

(b) Vice-Chair – The Vice-Chair shall act for the Chair in his/her absence, or in the event of the Chair's inability to act, perform all the functions of the Chair.

(c) Secretary – The Secretary shall conduct the correspondence of the Council, keep and distribute the minutes of the meetings, be custodian of the records and seal, keep the roll of all members, and discharge such other duties as may be assigned by the Chair or the members. The Executive Director shall serve as deputy to the Secretary.

(d) Treasurer – The Treasurer shall supervise the financial affairs of the Council, including recommending designation of checking and savings account depositories, and perform such other duties as usually pertain to that office. Except as provided for elsewhere, each negotiable check or warrant shall bear the signature of the Treasurer.

(2) Each officer so elected shall serve one (1) year or until re-elected or a successor is elected.

(3) A Nominating Committee comprised of at least three (3) Council members, each from a different County shall be appointed by the Chair at the regular December meeting of the Council for the purpose of proposing candidates for all offices for the following year. Additional nominations may be made by any Council member at the January monthly meeting. Newly elected officers shall be declared to be installed following their election at the January monthly meeting and shall assume the duties of office upon adjournment of said meeting.

##### **(4) Standing and Special Committees.**

The Council is empowered to designate and appoint standing committees, study groups, boards, and consultants consisting of members or non-members as the Council determines are essential or desirable to carry out its policies and objectives. The Council is empowered to direct the Executive Director to assign staff to support such standing committees, study groups, boards and

consultants to carry out the Council's policies and objectives. The Chair may appoint such special Advisory Committees consisting of members or non-members as he/she deems necessary or expedient to assist the Council and staff from time to time. Standing Committee members shall serve for terms of one (1) year. Special advisory committee members shall serve for the same period as the appointing Chair. All Committee actions shall be advisory only to the Council. The Council may, however, delegate certain specific administrative and review prerogatives to a committee in order to expedite the Council's work.

*Rulemaking Authority 186.505 FS. Law Implemented 186.505 FS. History--New 2-9-76, Amended 2-20-77, Formerly 29I-1.05, Amended 5-14-09.*

#### **29I-1.006 Conduct of Meetings.**

(1) The Council shall hold regular monthly meetings at a time and place to be determined by the membership prior to adjournment of the previous meeting or by the Chair in the absence of such determination. A monthly meeting may be waived by a majority of the Council. Business to have been conducted at the waived meeting shall be considered at the next successive monthly meeting.

(2) Special meetings of the Council may be called by the Chair at his/her discretion or when requested by six (6) voting members.

(3) Voting.

(a) Council members must be present to vote. A quorum shall consist of a majority of the total voting membership of the Council, representing at least four (4) of the Counties. When a quorum is present, a majority of those present may take action on matters properly presented at the meeting. Members present shall vote on each question presented to the Council unless they disqualify themselves. Business shall be transacted only at regular or special called meetings and shall be duly recorded in the minutes thereof.

(b) As permitted by Florida Statutes, Council members are present at a meeting when participating through interactive video and telephone systems.

(4) Minutes.

(a) The Council shall record minutes of its proceedings and official actions in the office of the Council.

(b) The minutes of prior meetings approved by a majority of the members present, shall become the official minutes.

(c) Each resolution shall be signed by the presiding officer at the meeting and by the Executive Director and entered in the minutes.

(5) Rules of Debate.

(a) Chair Participation: The presiding Chair shall not be deprived of any rights and privileges of a Council member by reason of being the presiding Chair, but may move or second a motion only after the gavel has been passed to the Vice-Chair or another member of the Council.

(b) Form of Address: Members shall address only the presiding officer for recognition; shall confine themselves to the question under debate; and shall avoid personalities and indecorous language.

(c) The Question: Upon the closing of debate the Chair shall call the question by voice or roll call vote. Members may give a brief statement or file a written explanation of their vote.

(6) Amending the Agenda.

If a subject is not on the Agenda it may be added by motion and a majority vote that the subject should not be delayed until the next meeting.

(7) DRI Recommendations.

(a) When the Council is considering the recommendations it shall make to a local government, the Council, in addition to its normal staff presentation, shall allow limited presentations by the following: the developer; the adjacent or contiguous city and county involved; technical consultants to the Council; and members of the public, who shall be required to submit a "Request to Speak" form. The applicant may request additional time for presentation. The Chair may limit or restrict the time available for any presentation. Any Council member may ask the developer, or any person present, specific questions concerning specific issues of the proposed development.

(b) The Council may close debate by a majority vote of the members present.

(8) Voting shall be by voice, but members shall have their votes recorded in the minutes if they so desire. A roll call vote shall be held upon proper motion. All other questions of procedure shall be governed by Robert's Rules of Order, Revised.

(9) Staff memoranda and committee resolutions, minutes and reports are prepared for the purpose of providing the Council with the basic information it requires to make decisions. Such staff memoranda and committee resolutions, minutes and reports are advisory only and not final actions or conclusions of the Council itself. The Council shall release all such data to the chief executive officer of each member governmental unit upon his request.

(10) All official meetings of the Council shall be open to the public as required by Florida Sunshine Laws, Chapter 286, F.S., and shall meet the requirements of the applicable sections of the Florida Administrative Procedures Act, Chapter 120, F.S. The Council shall give seven (7) days notice of meetings and workshops, in addition to any other notices as required by Florida Statutes.

*Rulemaking Authority 186.505(1) FS. Law Implemented 186.505 FS. History—New 2-9-76, Amended 2-20-77, 7-18-82, Formerly 29I-1.06, Amended 5-7-92, 5-14-09.*

#### **29I-1.007 Budget and Finances.**

(1) The Council shall cause to be prepared and shall adopt on or before August 15 of each year a budget for the development and implementation of the planning and development programs by such means and through such agencies as the Council shall determine and shall certify a copy thereof to the Clerk of the governing body of each local government that is a member established through (a) and (c) of subsection 29I-1.004(1), F.A.C., above. Upon approval thereof by the governing body each member local government shall include in its annual budget and cause the levy of a millage sufficient to produce the amount necessary to fund its proportionate share of the Council's total budget for the District, which, beyond minimums for individual membership established by the Council, bears the same ratio to the total budget as the population of each member unit bears to the total population of the District, all as determined annually by official population forecasts by the state of Florida for the year preceding each budget determination.

(2) The fiscal year of the Council shall commence on the first day of October of each year and end on the last day of September of the following year.

(3) The Council shall have the right to receive and accept in furtherance of its functions, funds, grants and services from Federal, State and Local Governments or their agencies and from private and community sources, and to expend therefrom such sums of money as shall be deemed necessary from time to time for the attainment of its objectives.

(4) Services Charges. The Council may establish fees for its services reasonably related to the general cost of providing such service including but not limited to the processing of Applications for Developments of Regional Impact.

(5) The Council shall maintain bank accounts, including, but not limited to, checking and savings accounts, and to do those things generally authorized by law for such public authorities.

(6) Designation of Authorized Fiscal Signatures. Each check or warrant issued by the Council shall be co-signed by one of two designated Council officers and by one of two designated Council employees in the following manner:

(a) Authorized Council Officers. Treasurer, or in his absence, a voting member designated by the Council.

(b) Authorized Council Employees. Executive Director, or in his absence, the Director of Planning, shall verify that budgeting provisions have been made therefor, and that quid pro quo has been received and shall have the check or warrant prepared.

All such Officers or Employees of the Council to whom authority to receive and disburse funds has been delegated shall be sufficiently bonded under a general fidelity bond to be paid by the Council.

(7) The Council shall prepare or cause to be prepared annually a report of its activities for the preceding fiscal year, to include an independently audited financial statement. The annual report shall be officially presented to the Council at its Annual Meeting.

(8) Council members shall receive no compensation for their services but shall be reimbursed for travel expenses incurred while engaged in specific, authorized activities on behalf of the Council.

*Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 186.502, 163.01 FS. History—New 2-9-76, Amended 7-18-82, Formerly 29I-1.07, Amended 5-4-88.*

#### **29I-1.008 Responsibilities and Authority.**

The Council shall exercise all powers granted to regional planning councils, or regional planning agencies by Section 186.505 F.S., and by its Interlocal Agreement dated, November 8, 1973, amended October 28, 1980, incorporated by reference and available from the Council.

*Rulemaking Authority 186.505(1) FS. Law Implemented 186.502 FS. History--New 2-9-76, Amended 7-18-82, Formerly 29I-1.08, Amended 5-7-92, 5-14-09.*

#### **29I-1.009 Amendments.**

These rules shall be amended by a majority vote of the Council. All proposed amendments shall be voted on at a regular meeting, the call of which meeting shall have included notice of the proposed amendment, and which shall have been duly advertised in accordance with the provisions of Chapter 120, Florida Statutes.

*Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 163.01 FS. History--New 2-9-76, 2-20-77, Formerly 29I-1.09.*

#### **29I-1.010 Information Requests.**

(1) The principal office of the Southwest Florida Regional Planning Council is located at 1926 Victoria Avenue, Fort Myers, Florida 33901-3414. The office hours are Monday through Friday, from 8:00 a.m. to 5:00 p.m. All official forms, publications or documents of the Council are available for public inspection at the Council's principal office during regular business hours.

(2) All information requests are fulfilled in compliance with the Florida Public Records Law, Chapter 119, F.S.

(3) Copies of the Council's forms, publications and official documents prepared for public dissemination are available as follows:

(a) Public agencies, defined as those organizations representing the public; government agencies situated in the State of Florida receive Council publications at no charge.

(b) Private organizations situated in Florida and all parties outside of Florida can receive Council publications at cost.

(c) Publications out of print or singular documents are available for inspection at its principal office. Persons wishing photocopies may receive same at cost.

*Rulemaking Authority 186.505(1) FS. Law Implemented 186.505 FS. History--New 2-9-76, Formerly 29I-1.10, Amended 5-14-09.*

#### **29I-4.001 DRI Review Process.**

(1) The DRI Review Process incorporates the following Council practices and procedures in conjunction with the required guidelines, reviews, reports, recommendations, and time limitations imposed by Chapter 380, F.S. The Southwest Florida Regional Planning Council (SWFRPC) has been charged by the State with the responsibility of reviewing Developments of Regional Impact (DRI's) as defined and authorized by Chapter 380, F.S. The SWFRPC is responsible for State Region 9, encompassing the Counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

(2) By law, the SWFRPC has 50 days in which to review an Application for Development Approval (ADA) after receiving notice that the legislative body of the local government will hold a DRI Public Hearing. However, the local government cannot schedule a DRI Public Hearing until it has received a letter from the SWFRPC indicating that the application is sufficient for review or that the SWFRPC has received notification from the developer that the additional requested information will not be supplied.

(3) Upon receiving a DRI-ADA, the SWFRPC has 30 calendar days in which to determine the sufficiency of the information provided. In order to provide an applicant with reasonable assurance that ADA will be acceptable, all information requested must be in the ADA. If the information in an ADA is determined by the SWFRPC to be insufficient, the applicant and the local government will be notified, in writing, of any information desired. If additional information is requested, the applicant has two options:

(a) To provide a letter within five working days of the receipt of the statement, requesting additional information, stating that the additional information will be provided to the SWFRPC and the local government. The applicant may choose to supply some of the requested information and decline, in writing, to provide the balance.

(b) To notify the SWFRPC that the requested additional information will not be provided. In this case, the SWFRPC may find it necessary to recommend that the ADA be denied for lack of information.

(4) Within 30 calendar days after receipt of such additional information, the SWFRPC shall review it following procedures specified in (3)(a) and (b) above and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information.

(5) If an applicant does not provide the information requested by the SWFRPC within 120 days of its request, the application shall be considered withdrawn. The SWFRPC Executive Director, at his discretion, may grant an additional 45 day extension, upon formal written request for an extension by the applicant. Any further time extension, beyond the discretionary 45 day time extension, must be formally requested by the applicant and approved by the SWFRPC board at its regular monthly meeting, prior to expiration of the discretionary 45 day extension.

Any such extension shall be based upon the complexity, availability of data and additional analysis caused by a time extension and any unnecessary hardships upon the developer.

(6) If the application is sufficient or if the developer has notified the SWFRPC that the additional requested information will not be provided, the SWFRPC, within 10 days of finding the application sufficient or receipt of notice from the applicant, will notify the local government and the applicant in writing. The local government is then required to set a DRI Public Hearing date at its next scheduled meeting. The notice of Public Hearing must be published at least 60 days in advance of the Hearing. The DRI Public Hearing date should be at least 10 days after the SWFRPC's meeting at which the DRI Assessment Report is officially adopted.

(7) The receipt of the local government notice of a DRI Public Hearing by the SWFRPC initiates the statutorily provided 50-day review period within which the Council must prepare and transmit a DRI Assessment Report to the local government. To eliminate the possibility of having to set up special Council meeting dates, the local government and the SWFRPC must coordinate the transmittal of the notice of the DRI Public Hearing so it is received by the SWFRPC no less than 45 days before the Council meeting at which the DRI Assessment Report would be officially adopted by the Council.

(8) After the DRI Public Hearing is held, the local government has 30 days to issue a Development Order. However, a time extension may be requested by the applicant. During the DRI Public Hearing, the local governments must consider the report and recommendations of the SWFRPC. The Development Order should approve, approve with conditions or deny the DRI. The Development Order should address all the regional issues raised by the SWFRPC indicating how these issues have or have not been resolved.

(9) Certified copies of the Development Orders shall be sent by the local government to the state land planning agency, the SWFRPC, and the applicant. Upon receipt of a copy of the Development Order to the state land planning agency, the SWFRPC, the owner, and the developer, a 45 day period begins during which appeals may be initiated. Three parties may appeal a Development Order: the landowner, the developer, or the state land planning agency. No development permit should be issued by the local government during this 45 day period. Should an appeal take place, no development permit should be issued by the local

government until the appeal is adjudicated. An appeal is made to the Land and Water Adjudicatory Commission. Decisions of the Commission are subject to judicial review under Chapter 120, F.S.

(10) The Council will review substantial deviation determinations made by local government on approved DRI Development Orders. The Council will assist the state land planning agency in monitoring the progress of the development and its compliance with the terms of the approved development. The Council will notify local governments if the required annual report is not received from the developer.

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History--New 2-9-76, Amended 2-20-77, 9-26-77, 7-18-82, Formerly 29I-4.01, Amended 7-27-86, 2-19-92, 5-14-09.*

#### **29I-4.003 Procedures for Filing an ADA.**

(1) An Application for Development Approval (ADA) may be received at any time by the SWFRPC. Before filing an ADA, the applicant shall contact the SWFRPC to arrange for a preapplication conference. During this conference, SWFRPC shall provide the applicant information about the DRI Process and the use of preapplication conferences to identify the appropriate listed regional issues and coordinate appropriate state, district, and local agency requirements.

(2) If during a preapplication meeting, the applicant states that any question(s) from the ADA appear unnecessary for a DRI and requests such question(s) be eliminated, the SWFRPC shall review the arguments of the applicant and then draft a written agreement for the elimination of any question(s) it deems unnecessary. If the SWFRPC determines during sufficiency review of a DRI that elimination of any ADA question(s) was based upon erroneous information, the question shall be immediately reinstated.

(3) The applicant must send a "Letter of Intent" to the Council at least one week prior to the submission of the DRI-ADA. All DRI communication and requests should be directed to:

Executive Director

Southwest Florida Regional Planning Council

(Please contact the agency for appropriate mailing address)

(4) At various intervals in the DRI Review Process, the Council's staff and the developer/owner, or a representative, may meet to discuss information deficiencies of the ADA and regional issues identified in the ADA. These meetings will be used to establish communication with the applicant and to seek appropriate measures to changes in the ADA necessary to resolve the regional issues prior to final review of the ADA by the Council.

(5) State, regional, and local governmental agencies will be invited to participate in the DRI Review process. Comments or reports on a particular DRI provided by such agencies will be included in the report of the staff to the Council.

(6) Standards used in review of DRI projects shall be as specified within SWFRPC rules and Regional Comprehensive Policy Plans. The SWFRPC shall also consider other appropriate Federal, State and Local Government Standards and Policies during the review of DRI projects.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01, 186.505, 380.06, 380.07 FS. History--New 2-9-76, Amended 2-20-77, 7-18-82, Formerly 29I-4.03, Amended 7-27-86, 2-19-92.*

#### **29I-4.004 DRI-ADA Form.**

(1) An application for development approval shall be submitted using the state land planning agency official ADA forms specified within Rule 9J-2.010, F.A.C. Form RPM-BSP-ADA-1, Development of Regional Impact Application for Development Approval under Section 380.06, F.S., effective 11/90, hereby incorporated by reference, shall be used and may be obtained from the SWFRPC. Each question shall be fully answered. The Standard ADA form is subject to clarification to reflect specific regional concerns and to clarify the intent and response necessary to specific questions or parts of questions. Such supplemental questions shall be provided to the applicant at the preapplication meeting.

(2) Applications are required to be submitted on 8 1/2 x 11 inch paper. Digital files and geo-referenced data may also be required. Each question must be repeated in the application text with the answer following.

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History--New 2-9-76 Amended 2-20-77, 7-18-82, Formerly 29I-4.04, Amended 7-27-86, 2-19-92, 5-14-09.*

#### **29I-4.005 DRI-ADA Submission.**

Copies of the completed ADA shall be submitted to the local government on the same date submitted to the SWFRPC. A minimum of 20 copies shall be submitted to the SWFRPC. Additional copies may be requested based on the number of regional review agencies expected to participate in the review process.

*Specific Authority 120.53(1), 163.01, 186.505 FS. Law Implemented 120.53(1), 163.01, 186.505, 380.06, 380.07 FS. History—New 2-9-76, Amended 1-3-77, 2-20-77, 7-18-82, Formerly 29I-4.05, Amended 7-27-86, 2-19-92.*

#### **29I-4.006 Request for DRI Review.**

The applicant must complete and deliver with the application for development approval (ADA) a “SWFRPC receipt and review fee agreement for review of developments of regional impact,” (eff. 7/2006 available from Southwest Florida Regional Planning Council).

*Rulemaking Authority 186.505(1) FS. Law Implemented 186.505, 380.06 FS. History—New 2-9-76, Amended 2-20-77, Formerly 29I-4.06, Amended 2-19-92, 5-14-09.*

#### **29I-4.007 DRI Review Fee.**

The DRI review fee for each DRI application, Florida Quality Development application, substantial deviation application, substantial deviation determination, supplemental plans and reviews identified in a development order requiring regional review or approval and review of each annual report are governed by the provisions of Rule 9J-2.0252, F.A.C. (DRI Review Fee Rule).

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06, 380.07 FS. History—New 8-19-76, Amended 2-20-77, 7-18-82, Formerly 29I-4.07, Amended 7-27-86, 9-20-88, 2-19-92, 5-14-09.*

#### **29I-4.009 Conceptual Agency Review.**

In order to facilitate the planning and preparation of permit applications for projects that undergo development-of-regional-impact review, and in order to coordinate the information required to issue such permits a developer may elect to request conceptual agency review pursuant to Section 380.06, F.S., either concurrently with development-of-regional-impact review and comprehensive plan amendments, if applicable, or subsequent to a preapplication conference. The developer should notify the SWFRPC and appropriate review agencies of his intent to request Conceptual Agency Review at the pre-application conference.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07 FS. History—New 7-27-86.*

#### **29I-4.010 Downtown Development Authorities.**

(1) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to Section 380.06, F.S. The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in Section 380.031(5), F.S. For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown development authority.

(2) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category.

*Specific Authority 120.53, 163.01, 186.505, FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07, FS. History—New 7-27-86.*

#### **29I-4.011 Areawide Development of Regional Impact.**

(1) An authorized developer may submit an areawide development of regional impact to be reviewed pursuant to the procedures and standards set forth in Section 380.06, F.S. The areawide development-of-regional-impact review shall include an area wide development plan in addition to any other information required by rule pursuant to Section 380.06, F.S., and the information required in the state land planning agency official ADA form.

(2) Prior to filing an Areawide DRI, the authorized developer shall submit a petition to the local government, the SWFRPC, and the state land planning agency requesting authorization to submit an Areawide ADA. Such petition shall include proof that timely, actual notice has been provided by the petitioner to each person owning land within the proposed areawide development plan. This

notice shall be in addition to other notice of public hearings as required by Section 380.06, F.S.

(3) Criteria used by the SWFRPC for evaluating a petition shall include, but not be limited to:

(a) Whether the developer is financially capable of processing the application for development approval through final approval pursuant to this section.

(b) Whether the defined planning area and anticipated development therein appear to be of a character, magnitude, and location that a proposed areawide development plan would be in the public interest. Any public interest determination under this criterion is preliminary and not binding on the state land planning agency, the SWFRPC, or local government.

(4) The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the SWFRPC, and to the state land planning agency, within 30 days after the order becomes effective.

(5) The petitioner, an owner of property within the defined planning area, or the state land planning agency may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the Commission. The procedures established in Section 380.07, F.S., shall be followed for such an appeal.

(6) In reviewing an application for a proposed areawide development of regional impact, the SWFRPC shall evaluate the following criteria, in addition to any other criteria set forth in this rule:

(a) Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development of regional impact.

(b) Whether the developer has demonstrated that all property owners within the defined planning area consent or do not object to the proposed areawide development of regional impact.

(c) Whether the area and the anticipated development are consistent with the applicable, local, regional, and state comprehensive plans and any state land development plan.

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 7-27-86, Amended 5-14-09.*

#### **29I-4.012 Florida's Quality Developments Program.**

(1) An authorized developer may file an application under the Florida's Quality Developments program pursuant to Section 380.061, F.S. The developer shall submit the application to the state land planning agency, the SWFRPC, and the appropriate local government for review. The review shall be conducted under the time limits and procedures set forth in Section 120.60, F.S., except that the 90-day time limit shall cease to run when all three entities reviewing the project have notified the applicant of their decision on whether the development should be designated under this program.

(2) Criteria used by the SWFRPC for review of an application submitted under this program shall be as specified within Section 380.06, F.S.

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 7-27-86, Amended 5-14-09.*

#### **29I-4.013 Review of Amendments to Development Orders.**

(1) The developer shall submit, simultaneously, to the local government, the SWFRPC, and the state land planning agency, the request for approval of a proposed change to a previously approved development of regional impact. The form for this submission shall be as prescribed by rule of the Department of Community Affairs.

(2) The SWFRPC shall review the proposed change and may, in its discretion and within 30 days of submittal by the developer of the request for approval of a change, advise the local government of its intention to participate at the public hearing before the local government.

(3) The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review, shall be subject to the appeal provisions of Section 380.07, F.S.

(4) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:

(a) The development-of-regional-impact review conducted by the SWFRPC shall address only those issues raised by the proposed change except as provided in paragraph (b).

(b) The SWFRPC shall consider, and recommend whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development.

(c) If the SWFRPC determines that the proposed change as it related to the entire development should be approved, any new conditions in the amendment to the development order recommended by the SWFRPC shall address only those issues raised by the proposed change.

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 7-27-86, Amended 5-14-09.*

**29I-4.0081 Master Development Approval Alternative Review Procedure.**

(1) If a proposed development is planned for development over an extended period of time, the developer may follow an alternative development of regional impact review procedure by filing an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This alternative procedure shall follow development of regional impact procedures established by statute and rule but shall not be used for the optional coordinated review process. The developer shall consult with the local government and the SWFRPC regarding information to be provided; the timing of review of phases, increments, or issues related to regional impacts of the proposed development; and any other considerations that must be addressed in the application for master development approval and the agreement required by Section 380.06, F.S. The agreement shall be entered into by the developer, the SWFRPC, and the local government having jurisdiction before the application for master development approval is filed.

(2) In determining sufficiency of information contained in an application for master development approval, the SWFRPC shall give consideration to: the adequacy and availability of sufficient, reliable information; the necessity of subsequent review of phases, increments, or issues related to regional impacts; additional information which may be required in subsequent incremental applications; and issues which could result in the denial of an incremental application.

(3) Prior to adoption of the master plan development order by the local government, the SWFRPC board shall review the draft development order and, if appropriate, related agreements, at a regularly scheduled board meeting, to ensure that the requirements of Section 380.06, F.S., are met.

(4) The review of subsequent incremental applications shall be as prescribed in Section 380.06, F.S. Substantial changes in conditions underlying the approval of the master development order was based are to be construed to mean changed conditions or inaccurate information that creates a reasonable likelihood of additional adverse regional impact or any other regional impact not previously reviewed by the regional planning agency.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07, FS. History—New 7-27-86.*

**29I-4.0081 Master Development Approval Alternative Review Procedure.**

(1) If a proposed development is planned for development over an extended period of time, the developer may follow an alternative development of regional impact review procedure by filing an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This alternative procedure shall follow development of regional impact procedures established by statute and rule but shall not be used for the optional coordinated review process. The developer shall consult with the local government and the SWFRPC regarding information to be provided; the timing of review of phases, increments, or issues related to regional impacts of the proposed development; and any other considerations that must be addressed in the application for master development approval and the agreement required by Section 380.06, F.S. The agreement shall be entered into by the developer, the SWFRPC, and the local government having jurisdiction before the application for master development approval is filed.

(2) In determining sufficiency of information contained in an application for master development approval, the SWFRPC shall give consideration to: the adequacy and availability of sufficient, reliable information; the necessity of subsequent review of phases, increments, or issues related to regional impacts; additional information which may be required in subsequent incremental applications; and issues which could result in the denial of an incremental application.

(3) Prior to adoption of the master plan development order by the local government, the SWFRPC board shall review the draft development order and, if appropriate, related agreements, at a regularly scheduled board meeting, to ensure that the requirements of Section 380.06, F.S., are met.

(4) The review of subsequent incremental applications shall be as prescribed in Section 380.06, F.S. Substantial changes in conditions underlying the approval of the master development order was based are to be construed to mean changed conditions or inaccurate information that creates a reasonable likelihood of additional adverse regional impact or any other regional impact not previously reviewed by the regional planning agency.

*Specific Authority 120.53, 163.01, 186.505 FS. Law Implemented 120.53, 163.01, 186.505, 380.06, 380.07, FS. History—New 7-27-86.*

### **29I-5.001 General.**

(1) The Southwest Florida Regional Planning Council was designated as the are awide clearinghouse pursuant to United States Office of Management and Budget Circular A-95 for substate District Nine on May 17, 1974.

(2) The Council's Clearinghouse Review function addresses projects requiring review under OMB Circular A-95 as well as U.S. Army Corps of Engineers/Department of Environmental Regulation Permits, Environmental Impact Statements, Florida Highway Projects, and Coast Guard Permits.

*Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History--New 9-5-78, Amended 10-15-78, Formerly 29I-5.01.*

### **29I-5.002 Classification of Projects.**

(1) Because of the high volume of Clearinghouse reviews, and the desire of the Council to provide more detailed analysis of those projects of regional significance, without duly burdening those applications of a local nature, a classification system is employed. All applications are classified as either a) Projects of Regional Significance, b) Projects of Less Than Regional Significance.

(2) Projects of Regional Significance include:

(a) All federally assisted projects or programs of organizations or agencies having multi-jurisdictional responsibility within all or part of the Region.

(b) All applications for comprehensive planning and management grants.

(c) All applications for projects which cross county boundaries, impact two or more counties, or projects of significant multi-jurisdictional impact.

(d) All applications for projects which approach the DRI threshold.

(e) All Environmental Impact Statements.

(f) All Proposals with a significant water quality impact on the Council's 208 study area.

(g) Any project which, due to its unique aspects, has regional significance.

(3) Projects of Less Than Regional Significance.

All applications NOT determined to be of Regional Significance are considered Projects of Less Than Regional Significance.

*Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History--New 9-5-78, Amended 10-15-78, Formerly 29I-5.02.*

### **29I-5.003 Review Criteria.**

(1) Projects of Regional Significance.

In reviewing Projects of Regional Significance, the following criteria is generally used in whole or in part:

(a) Project's consistency with adopted regional and local goals, objectives and policies.

(b) The need for the project and whether it duplicates an existing program.

(c) Appropriateness of the proposed funding levels and its project costs.

(d) Accuracy of data utilized; appropriateness of methodology, and the completeness of the proposal.

(e) The project's potential for air, noise and water pollution.

(f) The potential impact on historic/archeologic sites, wildlife habitats and sensitive ecosystems.

(g) The potential for increased surface water runoff and/or erosion.

(h) The accessibility to adequate infrastructure.

(i) The location of project in relation to those it will serve.

(j) If the project is located in the coastal zone, the project's compatibility with the State's Coastal Zone Management Program.

(k) The impact of traffic generated by the project.

(l) The effects on energy resource supply and demand.

(m) The project's potential secondary impacts including impacts on neighboring communities.

(n) The potential displacement of people, housing or business.

(o) The project's relationship to flood plain.

(2) Projects of Less than Regional Significance.

In reviewing Projects of Less Than Regional Significance, consistency with adopted regional and local goals, objectives and policies is assessed.

*Rulemaking Authority 186.505(1) FS. Law Implemented 380.06 FS. History—New 9-5-78, Amended 10-15-78, Formerly 29I-5.03, Amended 5-14-09.*

#### **29I-5.004 Review Procedures.**

All projects and programs which are reviewed by the Council are processed as follows:

(1) Receipt of Project.

When a proposal (Notification of Intent, Pre-Application, Permit Application, EIS, etc.) is received, it is date stamped, logged in and assigned a file number by the A-95 Coordinator. The Council has thirty (30) days to complete its Clearinghouse review of a project.

(2) Emergency Situations.

There are emergency situations when the Council will accept projects for Clearinghouse review with less than thirty (30) days remaining to review the project. The Council will work closely with the applicant to ensure that potential funding is not jeopardized. Review will commence when the documents are in a draft stage. Before the applicant is notified in writing of the Clearinghouse comments, however, the Council requires that the application in its final form be officially transmitted to it.

(3) Local Government Comment.

The A-95 Coordinator solicits comment from the local governments and other agencies whose interests might be affected. These letters indicate a deadline for comments. Comments received from local government or other agencies will either be included in the Council's comments or attached to them. If no comment is received by this date, it is presumed that the project or program is not inconsistent with local plans.

(4) Staff Action.

Each project or program is screened by the Council staff to determine if it is a new application or a continuation/modification of an existing program. The staff member then determines if the project is of regional significance and applies the appropriate review criteria.

(5) Staff Recommendations.

Utilizing the classification system and respective review criteria, described previously, each project is identified to be within one of four categories as follows:

- (a) Less than Regional Significance – Consistent with goals, objectives and policies,
- (b) Less than Regional Significance – Not consistent with goals, objectives and policies,
- (c) Regional Significance – Consistent with goals, objectives and policies,
- (d) Regional Significance – Not consistent with goals, objectives and policies.

When initial staff review determines that a proposal of regional significance does not appear consistent with regional goals, objectives and policies, every effort is made with the applicant to resolve the issues. This includes requesting additional information, meeting with the applicant, or discussing the issues with local government or other commenting agencies. If the issues are resolved through this effort, the project is recategorized.

The identification of the projects as to category, along with all analysis and comments, constitutes the staff's recommended action. Prior to each Council meeting, a report is prepared identifying the staff's recommended action for all Clearinghouse projects received during the previous month.

(6) Council Action.

Unless prevented by extenuating circumstances, the Council shall approve or disapprove the staff's recommended action for the Clearinghouse projects received during the previous month. Due to their importance, staff recommendations regarding Projects of Regional Significance that are not consistent with Regional and local goals, objectives, and policies shall be considered by the Council on an individual basis.

*Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History—New 9-5-78, Amended 10-15-78, Formerly 29I-5.04.*

**29I-5.005 Review Procedure – Graphic Presentation.**

**SEE FLORIDA ADMINISTRATIVE CODE FOR “REVIEW PROCEDURE - GRAPHIC PRESENTATION”**

*Specific Authority 163.01, 120.53(1) FS. Law Implemented 163.01, 120.53(1) FS. History—New 9-5-78, Amended 10-15-78, Formerly 29I-5.05.*

**29I-6.002 Strategic Regional Policy Plan.**

There is hereby adopted, for the Southwest Florida Region, the Strategic Regional Policy Plan for the Southwest Florida Regional Planning Council, August 2001, which is incorporated herein by reference and copies of which are kept at the Council office at: 4980 Bayline Drive, 4th Floor, North Fort Myers, Florida 33917. Copies are also available at our website: [www.swfrpc.org/publctns.htm](http://www.swfrpc.org/publctns.htm).

**VOLUME TWO: GOALS, STRATEGIES, AND ACTIONS.**

*Specific Authority 186.508(1) FS. Law Implemented 120.53(1) FS. History—New 10-23-95, Amended 7-3-02.*

### **29I-7.001 Purpose.**

(1) The purpose of this rule is to establish a voluntary regional dispute resolution process (RDRP) to reconcile differences on planning, growth management, and other issues among local governments, regional agencies and private interests. The process consists of seven components: (a) process initiation (initiation and response letters), (b) settlement meetings, (c) pre-initiation meeting, (d) situation assessment, (e) mediation, (f) advisory decision-making, and (g) reference to other dispute resolution processes (judicial, administrative, or arbitration proceedings). Components (a) and (b) are required while components (c), (d), (e), (f), and (g) are optional.

(2) The intent of the RDRP is to provide a flexible process to reconcile differences on planning and growth management issues that will clearly identify and resolve problems as early as possible; utilize the procedures in a low-to-high cost sequence; allow flexibility in the order in which the procedures are used; provide for the appropriate involvement of affected and responsible parties; and provide as much process certainty as possible.

(3) The RDRP may be used to resolve disputes involving extrajurisdictional impacts as provided for in the intergovernmental coordination elements of local comprehensive plans, as required by Section 163.3177, F.S.; inconsistencies between port master plans and local comprehensive plans, as required by Section 163.3178, F.S.; the siting of community residential homes, as required by Section 419.001(5), F.S.; and any other matters covered by statutes which reference the RDRP.

(4) The RDRP shall not be used to address disputes involving environmental permits or other regulatory matters unless all the parties involved agree to initiate use of the RDRP.

(5) The RDRP does not replace local processes and is not intended to be used by parties dissatisfied with the appropriate application of local rules and regulations.

(6) Use of the RDRP shall not alter the right of a jurisdiction, organization, group, or individual to judicial or administrative determination of any issues if that entity is entitled to such a determination under statutory or common law.

(7) Participation in the RDRP as a named party or in any other capacity does not convey or limit intervenor status in any judicial or administrative proceedings.

(8) All named parties who agree to participate in this process commit to a good faith effort to resolve problems or disputes.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

### **29I-7.002 Definitions.**

(1) "Situation assessment" is a procedure of information collection that may involve review of documents, interviews, and an assessment meeting leading to a written or oral report identifying the issues in dispute, the stakeholders, the information needed before a decision can be made, and a recommendation for appropriate dispute resolution procedures. This procedure is sometimes referred to as "fact finding."

(2) "Pre-initiation meeting" is a meeting which provides the opportunity for a party to discuss with the RPC staff the suitability of the RDRP for resolution of a dispute before formal initiation of the RDRP.

(3) "Facilitation" is a procedure in which the facilitator helps the parties to design and follow a meeting agenda and assists the parties to communicate more effectively throughout the process. The facilitator has no authority to make or recommend a decision.

(4) "Mediation" is a procedure in which a neutral party assists disputing parties in a negotiation process to explore their interests, develop and evaluate options, and reach a mutually acceptable agreement without prescribing a resolution. A mediator (who may take more control of the process than a facilitator) usually works in more complex cases in which a dispute is more clearly defined.

(5) "Advisory decision-making" is a procedure aimed at enhancing the effectiveness of negotiations and helping parties more realistically evaluate their negotiation positions. This procedure may include fact-finding, neutral evaluation, or advisory arbitration in which a neutral party or panel listens to the facts and arguments presented by the parties and renders a non-binding advisory decision.

(6) "Jurisdiction" is any local government or regional agency, including any special district, authority, or school board.

(7) "Named party" is any jurisdiction, organization, group, or individual who is named in an initiation letter, including the initiating jurisdiction, or any jurisdiction, organization, group, or individual who is permitted by the named parties to participate in settlement of a dispute pursuant to subsections 29I-7.003(1), (2), and (3), F.A.C. Being a "named party" in the RDRP does not convey or limit standing in any judicial or administrative proceeding.

(8) “Representative” is an individual who is given guidance and authority to act, to the extent possible, by a named party in a RDRP case. Subsection 29I-7.003(4), F.A.C., sets forth the process for designation of a representative.

(9) “Initiation letter” is a letter from a jurisdiction that formally identifies a dispute, asks named parties to engage in this process to resolve the dispute, and, at a minimum, requests the named parties to attend the initial settlement meeting. Rule 29I-7.010, F.A.C., specifies what must be included in an initiation letter.

(10) “Response letter” is a letter that formally notifies the initiator and other named parties that a party is willing to participate in the RDRP and, at a minimum, attend at least one settlement meeting. Subsection 29I-7.010(3), F.A.C., specifies what must be included in a response letter.

(11) “Settlement agreements” may be voluntarily approved by the individual or governing body authorized to bind the named party. Agreements may take the form of memorandums of understanding, contracts, interlocal agreements, or some other form mutually agreed to by the signatory parties or as required by law. A settlement may be agreed to by some or all of the named parties.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 4-12-94.*

### **29I-7.003 Participation.**

(1) Named parties shall automatically be allowed to participate. Other jurisdictions, public or private organizations, groups, or individuals may be suggested by a named party in response letters or during RDRP meetings. Any such entity or individual may also submit a petition to participate. In any case, such an entity or individual may become a named party if agreed to by a two-thirds majority of the participating named parties, except as provided for in subsection 29I-7.003(3), F.A.C. Fee allocation agreements will be amended as appropriate.

(2) All initiation and response letters that are made in accordance with intergovernmental coordination elements of local government comprehensive plans shall list only affected local government jurisdictions as named parties. The named parties, at the initial settlement meeting or at subsequent RDRP meetings, may add public or private named parties by mutual agreement of all the current named parties.

(3) Other jurisdictions, public or private organizations, groups or individuals seeking to become named parties shall submit to the Regional Planning Council (RPC) staff a written petition to participate, including reasons for the request and information required in subsection 29I-7.010(2), F.A.C. Such jurisdictions, organizations, groups, or individuals shall become named parties if agreed to by a two-thirds majority of the named parties, prior to or during RDRP meetings, except as pursuant to subsection 29I-7.003(2), F.A.C. Named parties who do not respond within 21 days of the date of the initiation letter may not participate in the RDRP unless they submit a petition for participation.

(4) Each of the jurisdictions, organizations, groups, or individuals participating as a named party in this process shall designate a representative, in writing, or be represented by the chief executive officer. Such a representative shall have authority to act, to the maximum extent feasible, and shall have responsibility to represent that party’s interest in this process and to maintain communications with that party throughout the process. Jurisdictions are encouraged to designate a representative to participate in this process in advance of initiating or receiving a request.

(5) Individuals or organizations who can provide information and technical assistance useful in the resolution of the dispute may be invited by a named party or the presiding neutral to attend meetings under this process. The parties, by agreement, or the presiding neutral shall determine when and under what circumstances such individuals or entities may be invited. Invited parties may provide input as agreed by the named parties or the presiding neutral.

(6) All communications by a named party called for in this process shall be submitted to all other named parties and the RPC staff in writing.

(7) Any named party may withdraw from participation in dispute resolution under this process upon written notice to all other named parties and the RPC staff.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 4-12-94.*

#### **29I-7.004 Costs.**

(1) There shall be no charge for processing a RDRP initiation request and facilitation of the initial settlement meeting. The SWFRPC shall be compensated for situation assessments, facilitation of additional settlement meetings, mediation, technical assistance, and other staff services at its standard rate or as negotiated by the parties. Outside professional neutrals shall be compensated at their standard rate or as negotiated by the parties.

(2) The costs of administration, settlement meetings, mediation, or advisory decision-making shall be split equally between the parties or as otherwise agreed. The agreed upon cost allocation shall be documented in a written fee agreement.

(3) Jurisdictions formally adopting this process shall establish budgeting procedures for paying the cost of participation in this process.

*Rulemaking Authority 186.505(1) FS. Law Implemented 186.505(5), 186.505(19) FS. History--New 4-12-94, Amended 5-14-09.*

#### **29I-7.005 Time Frames.**

(1) The initial settlement meeting shall be scheduled and held within 30 days of the date of receipt of the initiation letter at a time and place convenient to the named parties.

(2) Additional settlement meetings, mediation, or advisory decision-making shall be completed within 45 days of the date of the conclusion of the initial settlement meeting.

(3) All time frames specified or agreed to in this process may be altered by mutual agreement of the named parties.

(4) The parties may, by agreement, utilize procedures in the RDRP in any order.

(5) Where necessary to allow this process to be carried out effectively, named parties should consider deferring or seeking stays of judicial or administrative proceedings.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.006 Administrative Protocols.**

The Regional Planning Council is authorized to write and adopt such administrative procedures as are necessary to implement this rule. These may address staff and Council roles, procedures for situation assessment and the selection of neutrals, development of consumer guides, or other matters. Where required pursuant to Chapter 120.52, F.S., policies and guidelines should be adopted as rules.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.007 Public Notice, Records, and Confidentiality.**

(1) Named parties should consider the provision of appropriate opportunities for public input at each step in this process. This could include the submission of comments on issues, alternative solutions, and the impacts of proposed agreements.

(2) Applicable public notice and public records requirements shall be observed as required by Chapters 119 and 120, F.S.

(3) Participants in these procedures agree by their participation that no comments, meeting records, or written or oral offers of settlement shall be offered by them as evidence in a subsequent judicial or administrative action.

(4) To the extent permitted by law, mediation under this process will be governed by the confidentiality provisions of Chapter 44, F.S., and other applicable law.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.008 Pre-Initiation Meeting.**

A jurisdiction, organization, group, or individual contemplating initiation of this process may request an informal pre-initiation meeting with the RPC staff in order to ascertain whether the potential dispute would be appropriate for this process. The Regional Planning Council at the next regularly scheduled or emergency meeting shall authorize the staff to act as appropriate pursuant to Rules 29I-7.009, .010, .011, .012, .013, and .014, F.A.C.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.009 Situation Assessment.**

(1) A jurisdiction, organization, group, or individual may request that the RPC staff or other neutral perform a situation assessment at any time, before or after initiation of the process.

(2) The situation assessment may involve examination of documents, interviews, and assessment meetings and shall recommend issues to be addressed, parties that may participate, appropriate resolution procedures, and a proposed schedule.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.010 Initiation of the Process by Jurisdictions.**

(1) This process is initiated by an initiation letter from the representative of the governing body of a jurisdiction, other than a regional planning council, to the named parties as provided for in subsections 29I-7.003(1) and (2), F.A.C., and to the RPC staff. The initiation letter must be accompanied by a resolution of the governing body authorizing initiation or by a copy of a written authorization for the representative to initiate a request to use the RDRP process.

(2) Such an initiation letter shall identify the issues to be discussed, named parties to be involved in the dispute resolution process, the initiating party's representative and others who will attend, and a brief history of the dispute indicating why it is appropriate for this process.

(3) Named parties shall send a response letter to the RPC staff and all other named parties confirming their willingness to participate in a settlement meeting within twenty-one (21) days of receipt of the initiation letter. This response letter shall include any additional issues and potential named parties that the respondent wishes considered, as well as a brief history of the dispute and a description of the situation from the respondent's point of view.

(4) Upon receipt of a request, the RPC staff shall assess the interest of the RPC in the case. If the RPC is a named party or sees itself as a potential party, it shall notify the named parties of the nature of its interest and ascertain whether the parties desire an outside facilitator for the initial settlement meeting.

(5) The RPC may not initiate the RDRP but may recommend that a potential dispute is suitable for this process and transmit its recommendation to potential parties who may, at their discretion, initiate the RDRP.

(6) The RPC staff shall schedule a meeting at the most convenient time within thirty (30) days of the date of the receipt of the initiation request, unless the named parties agree otherwise.

(7) In the event that a dispute involves jurisdictions under two or more Regional Planning Councils, the process adopted by the Regional Planning Council of the initiating jurisdiction shall govern, unless the named parties agree otherwise.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.011 Requests to Initiate Submitted by Others.**

(1) Private interests may ask any jurisdiction to initiate the process.

(2) Any public or private organization, group, or individual may request that the RPC recommend use of this process to address a potential dispute in accordance with subsection 29I-7.010(5), F.A.C. Such a request shall be submitted in writing and shall include the information required for an initiation letter in subsection 29I-7.010(2), F.A.C.

(3) After reviewing the material submitted by, and consulting with, the requesting organization, group, or individual, the RPC staff will conduct a situation assessment and prepare a written report. The Council at the next regularly scheduled or emergency meeting, shall act to amend, reject, or affirm the recommendations of its staff.

(4) If the RPC determines that the potential dispute is suitable for the process, it shall transmit that determination in writing to the potential parties, as agreed upon by the RPC and the requesting organization, group, or individual. The determination may include a recommendation that one or more of the jurisdictions among the potential parties initiate the procedure. The RPC may also suggest that other resolution processes be considered.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.012 Settlement Meetings.**

(1) Settlement meetings shall, at a minimum, be attended by the properly designated representatives of the named parties.

(2) Settlement meetings shall be facilitated by an RPC staff member or other neutral facilitator acceptable to the parties and shall be held at a time and place acceptable to the parties within 30 days after the date of the receipt of the initiation request, unless

the named parties agree otherwise.

(3) At the settlement meeting, the parties shall consider the addition of named parties, consider guidelines for participation, identify the issues to be addressed, present their concerns and constraints, explore options for a solution, and seek agreement.

(4) The parties shall submit a settlement meeting report in accordance with subsection 29I-7.015(4), F.A.C., of this process.

(5) If an agreed-upon settlement meeting is not held or a settlement meeting produces no agreement to proceed to additional settlement meetings, mediation, or advisory decision-making, any party who has agreed to participate in this procedure may withdraw or may proceed to a joint meeting of governing bodies pursuant to Chapter 164, F.S., litigation, an administrative hearing, or arbitration, as appropriate.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.013 Mediation.**

(1) If two or more named parties submit a request for formal mediation to the RPC, the RPC shall assist them to select and retain a mediator or the named parties may request that the RPC select a mediator. An informal mediation may be administered by the staff of the Regional Planning Council or a member of the Regional Planning Council.

(2) All formal mediations shall be mediated by a mediator who understands Florida growth management issues, has mediation experience, and is acceptable to the parties. Parties may consider mediators who are on the Florida Growth Management Conflict Resolution Consortium rosters or any other mutually acceptable mediator. Mediators shall be guided by the Standards of Professional Conduct, Florida Rules of Civil Procedure, Rule 10, Part II, Section 020-150, F.S.

(3) The parties shall submit a mediation report in accordance with subsection 29I-7.015(4), F.A.C., of this process.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.014 Advisory Decision-Making.**

(1) If two or more of the named parties submit a request for advisory decision-making to the Regional Planning Council,

(a) The RPC shall assist the parties to select and retain an appropriate neutral;

(b) The parties may request that the RPC make the selection; or

(c) The parties may request the RPC to provide an advisory opinion at a regularly scheduled or emergency meeting. Parties serving on the Regional Planning Council may excuse themselves from voting on advisories which directly address their jurisdiction.

(2) A neutral handling a dispute must understand Florida growth management issues, have appropriate experience, and be acceptable to the parties.

(3) The parties shall submit an advisory decision-making report in accordance with subsection 29I-7.015(4), F.A.C., of this process at the conclusion.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

#### **29I-7.015 Settlement Agreements and Reports.**

(1) The form of all settlements reached through this process shall be determined by the named parties, and may include interlocal agreements, concurrent resolutions, memoranda of understanding, plan amendments, deed restrictions, or other forms as appropriate.

(2) Agreements signed by designated representatives may be in the form of recommendations to formal bodies and subject to their formal approval.

(3) Agreements may be reached by two or more parties even if all of the named parties do not agree or do not sign a formal agreement.

(4) After settlement meetings, mediation, or advisory decision-making under this process, the named parties shall submit a joint report to the RPC which shall, at a minimum, include

(a) An identification of the issues discussed and copies of any agreement reached;

(b) A list of potentially affected or involved jurisdictions, organizations, groups, or individuals (including those which may not be named parties);

(c) A time frame for starting and ending informal negotiations, additional settlement meetings, mediation, advisory decision-making, joint meetings of elected bodies, administrative hearings, or litigation;

- (d) Any additional RPC assistance requested;
- (e) A written fee allocation agreement to cover the costs of agreed-upon RDRP procedures;
- (f) A description of responsibilities and schedules for implementation and enforcement of agreements reached; and,
- (g) Any statements that any named party wishes to include.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

**29I-7.016 Other Dispute Resolution Processes.**

(1) The RDRP is a voluntary opportunity for parties to negotiate a mutual agreement. It may be used before, in parallel with, or after judicial or administrative proceedings.

(2) When appropriate, parties may obtain a stay of judicial or administrative proceedings to provide time for RDRP negotiations.

(3) Use of the RDRP shall not alter the right of a jurisdiction, organization, group, or individual to a judicial or administrative determination of any issue if that entity or person is entitled to such a determination under statutory or common law.

(4) Participation in the RDRP as a named party or in any other capacity does not convey or limit intervenor status or standing in any judicial or administrative proceedings.

(5) In addition to the Regional Dispute Resolution Process authorized by Section 186.509, F.S., parties may consider the applicability of other resolution processes within Florida statutes, including the following: Intergovernmental Coordination Element, Sections 163.3177(5)(h)1. and 2., F.S.; Port Master Plans, Section 163.3178, F.S.; Community Residential Homes, Section 419.001(5), F.S.; Cross Acceptance Negotiation Process, Section 186.505(22), F.S.; Location of Spoil Sites, Section 380.32(14), F.S.; Administrative Procedures Act, Chapter 120, F.S.; Florida Governmental Cooperation Act, Chapter 164, F.S.; and Mediation Alternatives to Judicial Action, Chapter 44, F.S.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 4-12-94.*

## Exhibit C

### History

<b>November 8, 1973</b>	<b>Original Interlocal Agreement (ILA) adopted (not recorded)</b>
<b>June 6, 1974</b>	<b>Amendment to ILA adopted to revise final date of budget approval from June 1 to August 15.</b>
<b>June 27, 1974</b>	<b>Amendment to the ILA adopted to provide for alternate voting members, the checks to be signed by the Treasurer, the meeting date moved to the first Thursday of the month, and for special meetings to require 24-hour notice.</b>
<b>August 1, 1974</b>	<b>By-Laws are adopted</b>
<b>January 18, 1976</b>	<b>RPC agrees to changed meeting date to third Thursday of month and to hold meetings at Holiday Inn.</b>
<b>February 5, 1976</b>	<b>Amendment to the ILA (that was presented at the 1/18/76 meeting) adopted that removes meeting day from ILA and provides wording changes as follows:</b> <ul style="list-style-type: none"><li>• Adds "regional" to title of Southwest Florida Planning Council</li><li>• Pg 1-2<sup>nd</sup> whereas: added: "to local government"</li><li>• Pg 2-2<sup>nd</sup> whereas: deleted</li><li>• Pg 2- 4<sup>th</sup> whereas: deleted</li><li>• Pg 3- now therefore: added regional to SWFPC and "region" changed to "Council"</li><li>• Pg 3- Purpose: Chapter 160 removed</li><li>• Pg 3- item 2a "principle" inserted, "Board of County Commissioners" inserted and wording regarding organizational meeting eliminated.</li><li>• Pg 4- b: reworded to remove initial term</li><li>• Pg 4- c: changes the amendment votes from ¾ to majority, changes the submission to council from 15 days to 7 days, removes "unanimous consent" of principle members for changes to membership and changes "region" to "council".</li><li>• Pg 5-e: "region" changed to "council"</li><li>• Pg 5- 4: Officers wording changed to remove to: be chief executive officer to supervise all functions".</li><li>• Pg 6- c: Changed "maintains" minutes to "approves" minutes</li><li>• Pg 6- e: removes language regarding "first officers of the region".</li><li>• Pg 6- 5 Meetings: Annual meeting changed from December to January</li><li>• Pg 6- 5b: changed working of regular meeting to: "dates and times established by Council" instead of a specific day of the month.</li><li>• Pg 6 -quorum: changed to voting members "present"</li></ul>

- Pg 7 – took out “and leave the room” for disqualifying members or those that recuse themselves from voting on an issue/project.
- Pg8 – 7a: section 160 removed
- Pg 8 – 7b: added the word “policy” to the sentence
- Pg 8-7e; 7f and 7h: Changed “region” to “Council”.
- Pg 8- 7j: added words “and before all administrative boards” regarding the ability to be sued and to defend.
- Pg9 – 7k added the word “institution” regarding the ability to accept grants and changed “region” to “council”.
- Pg9- 7m changed wording regarding the ability to incur debts such that they are not the debts, liabilities or obligations of any of the parties to the ILA

October 1980	Changed requirement for approval of amendments to the ILA from $\frac{3}{4}$ of voting members to $\frac{2}{3}$ of voting members and majority (4) of principal members; changes 15-day notice of amendments to 7 days; and added the 9 governor appointees or $\frac{1}{2}$ of total voting members to the membership.
2004	1973 original document with the 1976 and 1980 amendments were recorded by all counties to facilitate the purchase of the building on Victoria Avenue in Ft. Myers.

**The following is a comparison of the recorded Interlocal Agreement to the Bylaws and Florida Statutes**

<b><u>Interlocal Agreement (IA)</u></b>	<b><u>Bylaws</u></b>	<b><u>Florida Statutes (Fl.St.)</u></b>
Section 1: Purpose: <ol style="list-style-type: none"> <li>exercise rights and duties per chapters 23, 163, 380 Fl.St.</li> <li>regional coordinator</li> <li>review programs</li> <li>promote communication</li> <li>cooperate w/ federal, state, local</li> </ol>	29I-1.002 Purpose CONSISTENT with IA but references chapters 163, 186, 380 Fl.St.	Chapters 163, 186 and 380 Fl.St. govern  186.502 establishes RPC as “only multipurpose regional entity in a position to plan for and coordinate intergovernmental solutions to growth-related problems on great than local issues, provide technical assistance to local governments and meet other needs of the communities in each region.” (186.502(4))  186.505 Fl.St. is primary in listing powers and duties of RPC.

<p>Section 2: Date, Duration, Termination, Withdrawal</p> <ul style="list-style-type: none"> <li>a. principal (but misspelled principle) units are the 6 counties</li> <li>b. continuous agreement</li> <li>c. Amendments except re: membership can be made by majority of voting members; changes in membership by <i>majority of principal units</i>; 7 days notice required</li> <li>d. Any party or principal member can withdraw by resolution by giving 12 months notice; contractual obligations of withdrawing entity continue; all property remains property of Region (NOTE: THIS LANGUAGE PREDATES THE FLORIDA STATUTE REQUIRING RPCs and most other RPCs have similar language within their IAs)</li> <li>e. If complete termination of agreement, property will be liquidated and each principal member unit entitled to a share of proceeds pro rata</li> <li>f. If complete termination, non-federal matching grants are firm and all projects and reporting must be completed</li> <li>g. Agreement may be terminated at any time by resolution of each principal unit</li> </ul>	<p>29I-1.009 Amendments to Bylaws by majority vote</p> <p>29I-1.004(1)(e) changes in membership requires <math>\frac{2}{3}</math> <i>vote of members</i></p>	<p>186.504(1) and 186.512(1)(h) REQUIRES SWFRPC to exist and requires 6 counties as participating members</p>
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<p>Section 3: Membership Each principal unit (county) shall be represented by 1 alternate and 3 regular voting members of whom 2 regular voting members will be elected county officials and 1 will be an elected official of a municipal corporation within the county appointed after seeking the recommendation of the governing bodies of all municipalities within the county. Each appointed member serves at pleasure of appointing board of county commissioners. Alternate is eligible to vote in absence of regular voting member.</p>	<p>29I-1.004 (1) (a) Each county shall be represented by 2 voting representatives. (b) all municipalities shall elect 1 representative who will be a voting representative (c) each city has option to be a member local government (cities doing this do not participate in process in (b) above (d) representative from each local government shall be its elected chief representative OR member of its governing body chosen by governing body to be representative (2) Terms of Service (a) members may serve terms up to 3 years (b) alternates permitted (3) Vacancies shall be filled for unexpired term (4) Removal-where member has 3 consecutive unexplained absences from regular meetings, Council must advise appointing authority and request another appointment. Voting representatives will continue until Council is notified in writing of replacement.</p>	<p>186.504(2)-(4) Fl.St. membership requires: -representatives appointed by each of the member counties -representatives from other member local general-purpose governments -representatives appointed by Governor including an elected school board member to be nominated by Florida School Board Association. (3) Not less than <math>\frac{2}{3}</math> of representatives serving as voting members shall be elected officials from cities and counties. Each county must have at least 1 vote. Remaining <math>\frac{1}{3}</math> voting members shall be appointed by Governor. No 2 appointees of the Governor shall be from same county UNTIL each county is represented by a Governor's appointee. (4) In addition to voting members, Governor appoints ex officio NON-voting members (representative from DOT, DEP, DEC, and WMD). Governor may also appoint ex-officio nonvoting member from MPO and regional water supply authorities. (5) No requirement that municipalities become members.</p>
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<p>Section 4 Officers Include: Chair, Vice Chair, Secretary, Treasurer. All officers elected at annual meeting and hold officer for 1 year or until successors are elected and qualified.</p> <p>Section 5 Meetings</p> <ul style="list-style-type: none"> <li>a. January elections</li> <li>b. Regular meetings established by Council</li> <li>c. Special meetings - shall be called where one voting member of <math>\frac{2}{3}</math> principal units request</li> <li>d. Place and time</li> <li>e. quorum=majority voting members PRESENT as long as a voting member present from at least <math>\frac{1}{2}</math> principal units. If quorum established, majority voting may take action on all matters. Each member shall vote unless disqualified. Proxy voting prohibited.</li> <li>f. Secretary keeps minutes</li> </ul>	<p>29I-1.005 Officers, Term, Duties, Committees. Consistent with IA but goes further to specify regular January meeting includes elections of officers. Also, includes provisions for Nominating and Standing and Special Committees.</p> <p>29I-1.006(2) special meetings must occur when at least 6 voting members request</p> <p>(3)(a) quorum is "majority of the total voting membership of the Council, representing at least 4 of the counties." (3)(b) member is present when participating through interactive video and telephone systems (4) Minutes (5) Rules of Debate (6) Amending Agenda (7) DRI Recommendations (8) voting by voice (9) staff memoranda (10) all official meetings open to public as required by chapter 286 Fl.St. and shall satisfy APA chapter 120 Fl.St.</p>	
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<p>Section 6 Finances.  (a)by 8/15 budget adopted; each principal member unit shall include in its annual budget and cause the levy of a millage sufficient to produce an amount sufficient to fund it's proportionate share of budget  (b)defines FY  (c)right to receive and accept funds, grants  (d)proportionate share of budget of Region is per capita  (e)30cents per capita= dues.</p>	<p>29I-1.007 Budget and Finances  Not inconsistent but also includes  (4)service charges,  (5)maintenance of banking accounts, (6) signatures, (7)annual report and audit and (8)Council members receive no compensation but shall be reimbursed for travel expenses "incurred while engaged in specific, authorized activities on behalf of the Council"</p>	<p>185.505(12) Fl.St. RPC has power to fix and collect membership dues</p>
<p>Section 7 Powers  References chapters 23, 163 and 380</p>	<p>29I-1.008 Responsibilities and Authority references Section 186.505 Fl.St. and IA dated 11/8/73 and amended 10/28/80</p>	<p>186.505 Fl.St. is primary delineation of RPC's powers and duties.  Chapters 163, 186 and 380 Fl.St. govern.</p>
<p>Section 8 Severability  provision- if a provision is invalid, it does not invalidate the remaining provisions</p>	<p>29I-1.010 Information  Requests contain past address and provides for requests of public documents pursuant to chapter 119 Fl.St.</p> <p>29I-4.001-5.004 DRI Related</p> <p>29I-6.002 Strategic Regional Policy Plan- includes past address</p>	<p>DRI LAWS  REPEALED/AMENDED.</p> <p>186.507 and 186.508 Fl.St. requires SRPP. 186.511 Fl.St. requires SRPP at least every 5 years.</p>

	<p>29I-7.001-7.005 RDRP-regional dispute resolution process</p> <p>29I-7.006 Administrative protocols</p> <p>29I-7.007 Public Notice, Records, Confidentiality</p> <p>29I-7.008 Pre-Initiation Meeting</p> <p>29I-7.009 Situation Assessment</p> <p>29I-7.010 Initiation of the Process by Jurisdictions</p> <p>29I-7.011 Requests to Initiate Submitted by Others</p> <p>29I-7.012 Settlement Meetings</p> <p>29I-7.013 Mediation</p> <p>29I-7.014 Advisory Decision-Making</p> <p>29I-7.015 Settlement Agreements and Reports</p> <p>29I-7.016 Other Dispute Resolution Processes</p>	<p>186.509 Fl.St. requires Dispute Resolution Process</p>
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# EXHIBIT D

## REPLACEMENT INTERLOCAL

CREATING

THE

SOUTHWEST FLORIDA REGIONAL COUNCIL

EFFECTIVE XXXX, XXXX

AMENDED AND RESTATED  
INTERLOCAL AGREEMENT  
CREATING THE SOUTHWEST FLORIDA  
REGIONAL COUNCIL

THIS AMENDED AND RESTATED AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, pursuant to authority of Section 163.01, Florida Statutes, by and between:

CHARLOTTE COUNTY  
COLLIER COUNTY  
GLADES COUNTY  
HENDRY COUNTY  
LEE COUNTY  
and  
SARASOTA COUNTY

WITNESSETH:

WHEREAS, The Florida Interlocal Cooperation Act of 1969, Section 163.01 et seq., Florida Statutes, permits local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, this Agreement replaces the Interlocal Agreement entered on November 8, 1973, as amended June 6, 1974, as amended June 27, 1974, as amended February 5, 1976, and as amended October 28, 1980 by and among the parties to this agreement pursuant to which the Southwest Florida Regional Planning Council was originally created; and

WHEREAS, the Florida Regional Planning Council Act, Section 186.501, Florida Statutes, mandates the creation of a Regional Planning Council in each of the several comprehensive planning districts of the state; and,

WHEREAS, Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor have designated that the Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota; and

WHEREAS, the declared purpose of the Florida Regional Planning Council Act is to establish a common system of regional planning councils for areawide coordination and related cooperative activities of federal, state and local governments and ensure a broad-based regional organization that can provide a truly regional perspective enhancing the ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries; and

WHEREAS, it is the desire of the parties hereto to establish a regional council to serve in an advisory capacity to the constituent local governments and

WHEREAS, the parties hereto desire to make the most efficient use of their powers to cooperate for mutual advantage in conducting the regional planning process

and for providing coordination and cooperation within the Southwest Florida region;  
and,

WHEREAS, the Community Planning Act, Chapter 163, Part II Florida Statutes assigns to regional planning agencies the responsibility to determine the relationship and effect of a local government's plan or element thereof to or on the strategic regional policy plan and extra jurisdictional impacts; and,

WHEREAS, Governor's Executive Orders 83-150 and Presidential Executive Order 82-12372, designates the comprehensive regional planning agencies as areawide clearinghouses responsible for review and coordination regarding certain Federal programs; and,

WHEREAS, Regional Planning Councils are statutorily assigned various duties and responsibilities in Chapter 129, 163, 186, 258, 260, 288, 339, 380, 403, 420 and 1013, Florida Statutes and other applicable federal, state and local laws.

NOW, THEREFORE, for and in consideration of mutual promises, covenants, benefits to accrue from conduct of a regional planning process, and agreements herein contained and set forth, the member counties to hereby establish, pursuant to the authority of Section 163.01 and Section 186.501, Florida Statutes, the Southwest Florida Regional Planning Council located in Comprehensive Planning District IX consisting of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota, hereinafter referred to as the Council, a separate legal entity, and do further delegate such powers as are specified herein and agree as follows:

1. Purpose.

The purposes of this agreement are:

- (a) To provide local governments with a means of exercising the rights, duties and powers of a regional planning council as defined in Chapter 186, Florida Statutes and other applicable federal, state and local laws.
- (b) To provide a means for conducting the regional planning process.
- (c) To provide regional coordination for local governments in the Southwest Florida region.
- (d) To act in an advisory capacity to exchange, interchange, and review the various programs referred to it which are of regional concern.
- (e) To promote communication among local governments in the region and the identification and resolution of common regional-scale problems.
- (f) To cooperate with Federal, State, local, and non-governmental agencies and citizens to ensure the orderly and harmonious coordination of Federal, State, and local planning and development programs in order to insure the orderly, and balanced growth and development of this region, consistent with protection of the natural resources and environment of the region, and to promote safety, welfare and to enhance the quality of life of the residents of the region.

- (g) To encourage and promote communications between neighboring regional planning districts in attempt to ensure compatibility in development and long-range planning goals.
- (h) To establish an organization that will promote areawide coordination and related cooperative activities of federal, state and local governments, ensuring a broad based-regional organization that can provide a truly regional perspective and enhance that ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries.
- (i) To establish an organization to carry out the duties, functions and activities that are to the mutual advantage of one or more of the local governments within Southwest Florida.

2. Definitions.

- (a) Appointed Representative – a voting member of the Council.
- (b) Comprehensive Planning Districts – the geographic areas within the State specified by the Executive Office of the Governor, and/or by statute.
- (c) Strategic Regional Policy Plan – a plan prepared pursuant to Section 186.507 Florida Statutes and containing goals and policies that address, at a minimum, affordable housing, economic development, emergency preparedness, natural resources of regional significance and regional transportation and that may address any other subject

that relates to the particular needs and circumstances of the comprehensive planning district as determined by the regional planning council. Regional plans shall identify and address significant regional resources and facilities. Regional plans shall be consistent with the State Comprehensive Plan.

- (d) Contribution – any monies received by the Council from a member county or otherwise.
- (e) Council – the Southwest Florida Regional Planning Council.
- (f) Elected Official – a member of the governing body of a municipality or county or a county elected official chosen by the governing body.
- (g) Federal or Federal Government – the government of the United States or any department, commission, agency, or other instrumentalities thereof.
- (h) Governing body – the Board of County Commissioners or City/Town Council/Commission of any member county.
- (i) Local General Purpose Government – any municipality or county created pursuant to the authority granted under ss. 1 and 2, Article VIII of the Florida Constitution.
- (j) Member County – any county within the Southwest Florida Comprehensive Planning District IX.
- (k) Municipality – any incorporated municipality located within a member county.

(l) Principal Member Units – shall be the Charlotte, Collier, Glades, Hendry, Lee and Sarasota Boards of County Commissioners.

3. Effective Date, Duration, Amendment, Withdrawal, and Termination.

(a) The effective creation date of the Council is November 8, 1973.

(b) This agreement shall continue in effect until terminated as provided in Section 3.e.

(c) Any amendments to this agreement shall be in writing and set forth an effective date. To put into effect any amendment, each member county shall adopt, by a majority vote of its governing body, a resolution authorizing its chairman or chief elected official to execute the amendment.

(d) Termination may only occur concurrent with a subsequent Interlocal Agreement being adopted due to the requirement of Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor's designation of Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

(e) In the case of a complete termination of this agreement, the non-Federal matching contribution required to match any approved Federal or State grant shall be firm. The project shall be completed, and the required reports and accounting shall be completed.

4. Membership, Voting and Term.

- (a) Membership of the Council shall be provided pursuant to 186.504 Florida Statutes, as amended from time to time.
- (b) A regional planning council shall be created in each of the several comprehensive planning districts of the state. Only one agency shall exercise the responsibilities granted herein within the geographic boundaries of any one comprehensive planning district.
- (c) Membership on the regional planning council shall be as follows:
  - (1) Representatives appointed by each of the member counties in the geographic area covered by the regional planning council.
    - (1.1) There shall be two elected officials appointed from each of the member counties.
  - (2) Representatives from other member local general-purpose governments in the geographic area covered by the regional planning council.
    - (2.1) Each county shall decide which of cities, towns and or villages will be voting members of the regional planning council.
  - (3) Representatives appointed by the Governor from the geographic area covered by the regional planning council, including an elected school board member from the geographic area covered by the regional planning council, to be nominated by the Florida School Board Association.
  - (4) Not less than two-thirds of the representatives serving as voting members on the governing bodies of such regional planning councils shall be

elected officials of local general-purpose governments chosen by the cities and counties of the region, provided each county shall have at least one vote.

(5) The remaining one-third of the voting members on the governing board shall be appointed by the Governor, to include one elected school board member, subject to confirmation by the Senate, and shall reside in the region. No two appointees of the Governor shall have their places of residence in the same county until each county within the region is represented by a Governor's appointee to the governing board.

(6) Nothing contained in this section shall deny to local governing bodies or the Governor the option of appointing either locally elected officials or lay citizens provided at least two-thirds of the governing body of the regional planning council is composed of locally elected officials.

(7) In addition to voting members appointed pursuant to paragraph (2)(c), the Governor shall appoint the following ex officio nonvoting members to each regional planning council:

- (i) A representative of the Department of Transportation.
- (ii) A representative of the Department of Environmental Protection.
- (iii) A representative nominated by the Department of Economic Opportunity.
- (iv) A representative of the appropriate water management district or districts.

(8) The Governor may also appoint ex officio nonvoting members representing appropriate metropolitan planning organizations and regional water supply authorities.

(d) Nothing contained in this act shall be construed to mandate municipal government membership or participation in a regional planning council. However, each county shall be a member of the regional planning council created within the comprehensive planning district encompassing the county.

(e) The existing regional planning council in each of the several comprehensive planning districts shall be designated as the regional planning council specified under subsections (1)-(5), provided the council agrees to meet the membership criteria specified therein and is a regional planning council organized under either s. 163.01 or s. 163.02 or ss. 186.501-186.515.

(f) The names of all the appointed representatives shall be recorded in the Council minutes.

- i. Each Board Member shall have an equal vote, which shall be one (1) vote for each Board Member. The basic term of office for appointed representatives of the Council shall be set by the respective appointing authority. All representatives shall serve until a replacement is appointed by the appropriate appointing authority or until written resignation is received by the Council.

## 5. Officers.

The officers of the Council shall consist of:

- (a) A Chairman, who shall be responsible for overseeing the working organization of the Council, for seeing that all policies of the Council are carried out, and for presiding over all Council meeting. The Chairman or a designated representative shall be ex officio member of all subsidiary committees and boards.
- (b) A Vice-Chairman who shall preside in the Chairman's absence or inability to act. The Vice-Chairman shall perform such other functions as the Council may from time to time assign.
- (c) A Secretary, who shall be responsible for correspondence of the Council, approve minutes of the meetings, be custodian of the records, keep the roll of all members and discharge other duties as may be assigned by the Chairman or the members
- (d) A Treasurer, who shall supervise the financial affairs of the Council and perform such other duties as may be assigned.
- (e) The officers shall be elected at the annual meeting of the Regional Planning Council and shall hold office for a term of one (1) year or until their respective successor(s) are elected and qualified.
- (f) An Executive Committee, consisting of the Chairman, immediate past Chairman, Vice Chairman, Secretary, Treasurer shall be established to act for the Council when necessary to meet any emergency or to deal with any matters when it would be

impossible or inconvenient to convene a meeting of the full Council.

6. Meetings.

- (a) The annual election of officers shall occur in a timely manner, so the terms of officers may commence with their installation at the January meeting.
- (b) Regular meetings shall be held on the days and times established by the Council.
- (c) Special meetings shall be called by the Chairman either at his/her discretion or when she/he is requested by at least three (3) appointed representatives, none of which may be from the same member county; provided adequate notice shall be given to all appointed representatives stating the date, hour and place of the meeting and the purpose for which such meeting is called, and no other business shall be transacted at that meeting.
- (d) The place and time of each meeting shall be determined by the membership prior to the adjournment of the previous meeting. In the absence of such determination, the time and place of the meeting(s) shall be determined by the Chairman.
- (e) All meetings of the Council shall be open to the public.
- (f) A quorum at any meeting shall consist of at least one-half of all voting members. When a quorum has been established, a

majority of those present and voting may take action on all matters presented at the meeting. Each member shall vote on each question presented to the Council except in the event he disqualifies himself. Proxy voting is prohibited.

(g) The Secretary or his/her designee shall keep minutes of each meeting and distribute a copy thereof to each member county.

7. Finances.

(a) The work year and fiscal year of the Council shall be twelve (12) months beginning the first day of October and ending the thirtieth day of September.

(b) On or before August 15th of each year, the Council shall adopt an annual budget and certify a copy thereof to the Clerk or authorized recipient of the governing body of each member county. Each member county shall include in its annual budget and provide to the Council funds in an amount sufficient to fund its proportionate share of the Council's adopted budget, which bears the same ratio to the total budget as the population of each member unit bears to the total population of the region, all as determined annually by official population forecasts by the state of Florida for the year preceding each budget determination.

- i. Each municipal government having a voting seat on the Council shall provide its proportionate share of funds based on population.
  - ii. Each member county shall pay the full assessment to the regional planning council. Each County will collect the proportionate share of assessments for cities, towns and villages within each county that are voting members of the regional planning council.
- (c) Contributions for each fiscal year shall be payable in four equal installments. Payments shall be made within thirty (30) days from receipt of invoicing. The contribution of each member county shall be fifteen cents (15 cents) per capita of the population of the member county according to the most recent available determination under Section 186.901 Florida Statutes.
- (d) Each member county who does not remit the contribution amounts in accordance with Section 7(c) above shall lose all voting privileges until payment is made.

## 8. Powers

The Council shall have the right to receive and accept in furtherance of its function; gifts, grants, assistance funds, bequeaths, and services from Federal, State and local governments or their agencies and from private and community sources, and to expend therefrom such sums of money

as shall be deemed necessary from time to time for the attainment of its objectives in accordance with all applicable laws. Pursuant to Chapter 186.505 F.S. the Council shall have all powers granted herein including:

- (a) To adopt rules of procedure for the regulation of its affairs and the conduct of its business and to appoint from among its members a chair to serve annually; however, such chair may be subject to reelection.
- (b) To adopt an official name and seal.
- (c) To maintain an office at such place or places within the comprehensive planning district as it may designate.
- (d) To employ and to compensate such personnel, consultants, and technical and professional assistants as it deems necessary to exercise the powers and perform the duties set forth in this act.
- (e) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.
- (f) To hold public hearings and sponsor public forums in any part of the regional area whenever the council deems it necessary or useful in the execution of its other functions.
- (g) To sue and be sued in its own name.
- (h) To accept and receive, in furtherance of its functions, funds, grants, and services from the Federal Government or its agencies; from departments, agencies, and instrumentalities of state, municipal, or local government; or from private or civic sources. Each regional planning council shall render an accounting of the receipt and disbursement of all funds received by it, pursuant to the federal Older Americans Act, to the Legislature no later than March 1 of each year.

- (i) To receive and expend such sums of money as shall be from time to time appropriated for its use by any county or municipality when approved by the council and to act as an agency to receive and expend federal funds for planning.
- (j) To act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.
- (k) To cooperate, in the exercise of its planning functions, with federal and state agencies in planning for emergency management as defined in s. 252.34.
- (l) To fix and collect membership dues, rents, or fees when appropriate.
- (m) To acquire, own, hold in custody, operate, maintain, lease, or sell real or personal property.
- (n) To dispose of any property acquired through the execution of an interlocal agreement under s. 163.01.
- (o) To accept gifts, grants, assistance, funds, or bequests.
- (p) To conduct studies of the resources of the region.
- (q) To participate with other governmental agencies, educational institutions, and private organizations in the coordination or conduct of its activities.
- (r) To select and appoint such advisory bodies as the council may find appropriate for the conduct of its activities.
- (s) To enter into contracts to provide, at cost, such services related to its responsibilities as may be requested by local governments within the region and which the council finds feasible to perform.
- (t) To provide technical assistance to local governments on growth management matters.

- (u) To perform a coordinating function among other regional entities relating to preparation and assurance of regular review of the strategic regional policy plan, with the entities to be coordinated determined by the topics addressed in the strategic regional policy plan.
- (v) To coordinate land development and transportation policies in a manner that fosters regionwide transportation systems.
- (w) To review plans of independent transportation authorities and metropolitan planning organizations to identify inconsistencies between those agencies' plans and applicable local government plans.
- (x) To use personnel, consultants, or technical or professional assistants of the council to help local governments within the geographic area covered by the council conduct economic development activities.
- (y) To provide consulting services to a private developer or landowner for a project, if not serving in a review capacity in the future, except that statutorily mandated services may be provided by the regional planning council regardless of its review role.

## 9. Rules of Procedure

See attached Replacement By-laws

## 10. Immunity

All of the privileges and immunities from liability and exemptions from laws, ordinance and rules which apply to the activity of the officials, officers, agents or employees of the members shall apply to the officials,

officers, agents of employees of the Council when performing their respective functions and duties under the provisions of this Agreement.

11. Limited Liability

Except as provided in Section 3(e) and Section 7 herein, no member shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Council, the representatives of any other agents, employees, officers or officials of the Council to have any authority or power to otherwise obligate the members in any manner.

12. Severability.

If any provision of this agreement or the application of such provisions to any person or circumstance shall be invalid, such invalidity shall not affect other provisions or applications of this agreement which can be given effect without invalid provisions or applications, and to this end the provisions of this agreement are declared severable.

13. Signatories.

It is expressly understood that the terms and conditions of this agreement shall be effective between and among those parties signatory hereto; and that the validity, force and effect to their agreement shall not be affected by one or more of the parties named herein not joining in this agreement any other provisions of this agreement to the contrary notwithstanding.

IN THE WITNESS WHEREOF, the parties have officially adopted and caused this amended and restated agreement to be executed and their signature to be affixed by their respective Chairman or Chief Elected Official as of the day and year first above written.

Execution of parties follows on next page.

CHARLOTTE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISIONERS

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Chairman

COLLIER COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISIONERS

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Chairman

GLADES COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISIONERS

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Chairman

HENDRY COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISSIONERS

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Chairman

LEE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISSIONERS

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Chairman

SARASOTA COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISSIONERS

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Chairman

# EXHIBIT E REPLACEMENT BYLAWS

of the  
SOUTHWEST FLORIDA REGIONAL PLANNING  
COUNCIL



## TABLE OF CONTENTS

SECTION	Page
1. Organization	1
2. Powers and Duties	1
3. Membership	2
4. Officers, Term of Office and Standing Committees	2
5. Executive Director	3
6. General Information	4
7. Public Records	4
8. Public Meetings	4

### 1. ORGANIZATION

The name of the agency shall be the Southwest Florida Regional Planning Council. It is a regional planning council formed in November 1973 under the authority of Chapter 160, Florida Statutes, as a voluntary association of local governments of the counties and municipalities which comprise the Region, namely, the counties of Charlotte, Collier, Hendry, Glades, Lee and Sarasota. The regional boundaries are those defined as Comprehensive Planning District IX as specified by rule by the Executive Office of the Governor pursuant to 27E-1.002, F.A.C.

### 2. POWERS AND DUTIES

The Council shall have the following powers and duties prescribed and granted by Chapter 186.505(1) through (25), Florida Statutes, and as they may be amended from time to time.

### 3. MEMBERSHIP

The Council shall consist of twenty-seven (24) voting members. A voting member shall represent each Principal member unit of the Council as described in the following.

- a. Two voting members from each member county shall be a member of that county's Board of County Commissioners and appointed by that Board. If an alternate is assigned on the annual appointment form, the alternate must also be a county elected official.
- b. One voting member from each member county shall be a Mayor, a City Commission or Council member, or other elected municipal official from one of the local general-purpose governments in the county, appointed by the Board of County Commissioners from the respective County.
- c. There shall be six (6) voting members appointed by the Governor, subject to confirmation by the Florida Senate. One (1) member who is a resident of that county shall represent each County.
- e. **Ex-officio Members:** There may be (1) non-voting ex-officio member from the South Florida Water Management District (SFWMD), from the Southwest Florida Water Management District (SWFWMD) from the Florida Department of Transportation (FDOT), from the Florida Department of Environmental Protection (FDEP), and a representative nominated by the Florida Department of Economic Opportunity (FDEO).

### 4. OFFICERS, TERM OF OFFICE AND STANDING COMMITTEES

- a. **Officers:** The Council shall elect from its membership, a Chairman, a Vice-Chairman a Secretary and a Treasurer. The Chairman shall preside over regular and special meetings of the Council. The Chairman may also represent and speak for the Council at other official meetings and functions. The Vice-Chairman shall assume duties of the Chairman on request of the Chairman or in the absence of the Chairman.
- b. **Terms of Office:** The Chairman, Vice Chairman, Secretary and Treasurer shall be elected annually. All officers are limited to two consecutive two-year terms.
- c. **Elections:** The election of the Chairman, Vice Chairman and other officers as may be created or appointed by the Council shall be at the January meeting of the calendar year every year. Installation shall follow immediately.

- d. **Standing Committees:** The Council may establish such standing committees, as it may deem appropriate to the efficient pursuit of its duties and responsibilities. Members of all committees shall be appointed by the Chairman and shall serve at his or her discretion. Ad hoc and special committees may be appointed and dissolved by the Chairman with the approval of the Council. The following committee is hereby established as a standing committee.
  - 1. **Executive Committee:** Duties of the Executive Committee shall be to represent and act on behalf of the Council between regular meetings, on personnel relations and regulations, budget control, and on contractual relationships with individuals, agencies and firms. The Committee may meet in lieu of the regular Council meeting and shall have the authority to conduct Council business. Membership shall be composed of the Chairman, Vice Chairman, Secretary, Treasurer, and Past Chairman.

## 5. EXECUTIVE DIRECTOR

- a. The Executive Director of the Southwest Florida Regional Planning Council shall be selected by the Executive Committee and shall be appointed by a majority of those Council members present and voting at an official meeting of the Council at which an appointment is being considered. Compensation for the Executive Director shall be set and adjusted from time to time by the Executive Committee and ratified by the Full Council.
- b. The Executive Director shall be appointed for an indefinite term to continue for such time as both parties find the association to be satisfactory. Neither party shall terminate the period of employment with less than sixty (60) days written notice, unless the other party waives the rights to such notice. The Council retains the right to remove the Executive Director from office for just cause without notice or compensation in the event of fraud, dishonesty, or criminal actions and may suspend said Executive Director pending investigation and hearings on charges before the Council.
- c. The Executive Director shall operate the Regional Planning Agency with the concurrence of the Council, and shall report at each meeting of the Council on the progress, problems and status of the approved programs. The duties and the limits of his or her authority shall, from time to time, be prescribed by the Council and shall include, but not be limited to the following:
  - 1. Recruit, employ, set compensation, and train and direct all authorized staff personnel in accordance with the annual budget as approved by the Council.

2. Approve all expenditures and account for all budgeted funds.
3. Prepare all budgets for Council review and approval.
4. Negotiate for all available funding from local, state and/or federal or private sources.
5. Conduct such research, planning and economic development programs as will benefit the member governments as approved by the Council.
6. Coordinate the programs of all departments to insure maximum benefit and minimum costs.

## **6. GENERAL INFORMATION**

The mailing address of the Southwest Florida Regional Planning Office is P.O. Box 60933, Ft. Myers, Florida 33906.

## **7. PUBLIC RECORDS**

Any and all Council correspondence, reports, publications, memoranda and other documents are public records and thus open for public inspection during office hours.

The Council maintains a list of publications available and the cost per document. Individuals using the Council's copying machine are charged a set per page fee. Any person may purchase documents. Local general-purpose governments within the region shall be charged only the direct cost of production and are not subject to regular cost schedules.

## **8. PUBLIC MEETINGS**

The Council normally meets every other month on the third Thursday of the month at 9:00 a.m. Eastern Time. The date and time of regular meetings may change for the convenience of the Council. The Chairman or any two Executive Committee members may call Executive Committee meetings. The Council and Executive Committee meetings shall be conducted pursuant to Roberts Rules of Order Revised.

- a. **Quorum:** Half of the voting members shall constitute a quorum. For purposes of establishing a quorum, the following rules shall apply. (1) Vacant seats on the Council shall not count as a “voting member”. (2) Any member who has been reasonably notified by the appointing body and is unresponsive, shall not count as a “voting member”. In the event that a quorum is not present, a majority of the voting members present may reschedule and adjourn the meeting.

A quorum for the Executive Committee will consist of three (3) voting members. During circumstances that require immediate action, the Executive Committee may conduct its business via teleconference.

- b. **Annual Meeting:** The regular January meeting shall be known as the Annual Meeting and shall be for the purpose of installing the Chairman, Vice-Chairman, Secretary and Treasurer, and conducting other business as may come before the membership.
- c. **Notice:** The general public is cordially invited to all Council meetings and proceedings. Notice of these meetings is published at least seven (7) days prior thereto in the Florida Administrative Register. In addition, notice is mailed to all Council members and to anyone who has requested notice.

Adopted on the \_\_\_\_\_ day of \_\_\_\_\_ 2020 at the Council’s Board Meeting.

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Chair, Southwest Florida Regional Planning Council