

**AMENDED AND RESTATED BYLAWS
OF
THE ISLAND WATER ASSOC., INC.**

**ARTICLE I
General Purposes**

The purposes for which this corporation (the "Corporation") is formed and the powers which it may exercise are set forth in the Articles of Incorporation of the Corporation.

**ARTICLE II
Name & Location**

Section 1. The name of this Corporation is THE ISLAND WATER ASSOC., INC.

Section 2. The principal office of the Corporation shall be located in Lee County, Florida, but the Corporation may maintain offices and places of business at such other places within the state of Florida as the Board of Directors may determine.

**ARTICLE III
Seal**

Section 1. The seal of the Corporation shall have inscribed thereon the name of the Corporation, the year of its organization, and shall contain the words "Corporation Not for Profit."

Section 2. The Secretary of the Corporation shall oversee custody of the seal.

Section 3. The seal may be used by causing it (or a facsimile thereof) to be impressed or affixed or in any other manner reproduced.

**ARTICLE IV
Fiscal Year**

The fiscal year of the Corporation shall begin the first day of January in each year.

**ARTICLE V
Membership**

Section 1. The holders of memberships of this Corporation are its members. Any person (which word as used herein includes any legal entity) who meets the initial eligibility requirements (as hereinafter defined) may be admitted to membership upon (i) subscribing for or otherwise acquiring a membership, (ii) signing an application for membership, (iii) signing a water user's agreement in form approved by the Board of Directors, and (iv) upon full payment of charges and connection fees associated with membership as set forth by the service rules and regulations then in effect. For purposes hereof, the "initial eligibility requirements" mean and include a person having reasonable accessibility to the source of, and who is in need of, services provided by the water system

or other services operated by the Corporation, and who has received the approval of the Board of Directors; provided, the Board of Directors may delegate such approval process to the Corporation's staff. Notwithstanding the foregoing, no person otherwise meeting the initial eligibility requirements shall be permitted to subscribe for or acquire a membership of the Corporation if the capacity of the Corporation's water system is exhausted by the needs of its existing members.

Section 2. Each connection for the services rendered by the Corporation shall entitle the subscriber for such connection to one membership, subject to the terms and conditions herein, the rules and regulations of the Corporation (as amended from time to time), and the water user's agreement.

Section 3. At any meeting of the members of the Corporation, each member shall be entitled to one vote only, regardless of the number of memberships held, provided the member is in good standing. At any meeting, the members may attend, participate and vote in person or by proxy, provided that proxies may be given only to members of the Corporation.

Section 4. In case of the death of a member, or if a member ceases to be eligible for membership, or a member willfully fails to comply with the Bylaws or rules and regulations of the Corporation, the Board of Directors may terminate the membership by resolution of the Board. Any member whose membership is so terminated for cause, other than ceasing to be eligible, may appeal the action of the Board of Directors to the members at the next regular or special meeting. For purposes hereof, a member ceases to be eligible for membership if he ceases to have reasonable accessibility to the source of, or be in need of, services provided by the water system or other services operated by the Corporation.

Section 5. All transfers of memberships shall be made upon the books of the Corporation only to persons eligible to become members.

Section 6. This Corporation shall not have capital stock, but its equity in the event of liquidation shall be represented by memberships.

ARTICLE VI **Meetings of Members**

Section 1. The Annual Meeting of the members of this Corporation shall be held at the principal offices of the Corporation at Sanibel Island, Florida, at 9:00 a.m. local time on the second Monday in April of each year, if not a legal holiday, or if a legal holiday, on the next business day following. The place and time of the Annual Meeting may be changed by the Board of Directors giving notice thereof to each member not less than ten (10) days in advance thereof.

Section 2. A special meeting of the members may be called at any time by the action of the Board of Directors and such meetings must be called by the President whenever a petition requesting such meeting is signed by at least ten percent (10%) of the members and presented to the President or to the Board of Directors. The purpose of every special

meeting shall be stated in the notice thereof, and no business shall be transacted thereat except such as is specified in the notice.

Section 3. Notice of any special meeting of members of the Corporation may be given by a notice mailed to each member of record, directed to the address shown upon the books of the Corporation, not less than ten (10) nor more than fifty (50) days prior to the meeting. Such a notice shall state the day, hour, place and purpose of the special meeting. No notice of the Annual Meeting shall be required unless the date, time, and/or location differs from that provided in the first sentence of Section 1 of this ARTICLE VI, and for avoidance of doubt, any matter that may be voted on by the members may be presented to the members at the annual meeting, without advance notice thereof.

Section 4. The lesser of ten percent (10%) of the members then in good standing or fifty (50) members then in good standing, present, in person or by proxy, shall constitute a quorum at any meeting of the members for the transaction of business. For purposes hereof, a member is in good standing if he is eligible (as described in Section 1 of ARTICLE V) and is not then in breach or default of the terms of the Articles of Incorporation, these Bylaws, the water user's agreement, or any rules, policies and procedures of the Corporation then in effect.

Section 5. At least ninety (90) days prior to the Annual Meeting, the President, with the approval of the Board of Directors, shall appoint a Nominating Committee consisting of five persons, each of whom shall be a member of the Corporation. No Director shall be a member of the Nominating Committee. The Nominating Committee shall propose one qualified candidate for each vacancy on the Board and shall present its recommendations in writing to the President at least forty-five (45) days prior to the Annual Meeting. The Board shall review the Nominating Committee's recommendations, any additional nominations for potential candidates to be proposed by the Board, and shall then select the proposed slate of candidates to be presented to the Members. Candidates for the Board of Directors may be nominated by any member of the Corporation, provided the name or names of such candidate(s) shall be presented in writing to the Secretary in a letter signed by at least ten percent (10%) of the members then in good standing and delivered at least fifteen (15) days prior to the Annual Meeting. The slate of candidates approved by the Board shall be submitted to the membership at least thirty (30) days prior to the Annual Meeting along with a statement of the conditions for nominating additional candidates. Directors shall be elected by the membership at the Annual Meeting or, if so approved by the Board and indicated in the meeting notice, such election may be conducted by mail. No cumulative voting shall be allowed.

Section 6. The order of business at all meetings shall be determined by the Board of Directors.

ARTICLE VII **Directors & Officers**

Section 1. The Board of Directors of this Corporation shall consist of five (5) persons, all of whom shall have a personal residence within the franchise area of the Corporation

and shall be either members of the Corporation or designees of legal entity members. The Directors shall hold office for a term of three (3) years with terms staggered in accordance with policies approved by the Board of Directors from time to time, so long as the term for any given position is identified prior to the first notice for the nomination related to such position. Directors may hold office for no more than six (6) consecutive years, provided that persons appointed to or elected to serve portions of terms in the event of vacancies may also serve six (6) consecutive years in addition thereto and provided that persons who have served six (6) consecutive years may again serve if they have not held said office for a period of at least one (1) year intervening. Additionally, a director may be elected to a term of one (1) or two (2) years to achieve the aforementioned staggered Board terms or if a director standing for election has only that amount of time available within the six (6) consecutive year limitation for serving. Directors shall hold office until their successors have been elected and have qualified.

Section 2. Members which are legal entities other than individuals shall have the same right to be elected to the Board of Directors of the Corporation as do individuals. In doing so, however, such legal entity must designate an individual who will serve as its designee on the Board of Directors, if elected. Such designee must have a personal residence within the franchise area of the corporation and shall stand for election to the Board of Directors in the same manner as an individual member, although such designee need not be a member in his own right. Once such designee has been elected to the Board of Directors, the designating legal entity cannot substitute another individual for that designee. Should the designee cease to be a member of the Board of Directors, the Board of Directors shall fill the vacancy as it would any other vacancy on the Board.

Section 3. The Board of Directors shall meet within ten (10) days after the annual election of Directors and shall elect from among themselves a President and four Vice Presidents, with two of those Vice-Presidents serving also as a Secretary and Treasurer, each of whom shall hold office until the next Annual Meeting and until the election and qualification of his or her successor unless sooner removed by death, resignation or for cause.

Section 4. If the office of any Director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, a majority of the remaining Directors, even if less than a quorum, shall by a majority vote choose a successor who shall hold office for the remainder of the unexpired term.

Section 5. The Board of Directors shall hold meetings periodically. The Board may set policy as to the attendance requirements of directors at those meetings. Members of the Corporation can request in writing in advance to attend a portion of those meetings for a specified purpose. A majority of the Board of Directors shall constitute a quorum at any meeting of the Board.

Section 6. There shall be no compensation for Officers or Directors.

Section 7. Directors may be removed from office for good cause in the following manner: any member then in good standing or Director may present charges against a

Director by filing them in writing with the Secretary of the Corporation; provided, if the Secretary is the Director against whom the charges are presented, the charges may be filed in writing with any other Director. If presented by a member, the charges must be accompanied by a petition signed by ten percent (10%) of the members of the Corporation then in good standing. Such removal shall be voted on at the next regular or special meeting of the members present. The Director against whom such charges have been presented shall be informed, in writing, of such charges thirty (30) days prior to the meeting. The person or persons presenting such charges shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses and the person against whom the charges are made shall have the same opportunity. If the removal of a Director is approved, such action shall also vacate any other office held by the removed Director in the Corporation; provided, removal of a Director shall not, in itself, terminate such person's membership in the Corporation. A vacancy in any office thus created shall be filled by the Directors from among their number so constituted after the vacancy in the Board has been filled.

Section 8. The Board of Directors is authorized to purchase with the Corporation's funds liability insurance protecting each Director and Officer of the Corporation now or hereafter serving as such, against any and all claims and liabilities to which he has or shall become subject by reason of serving or having served as such Director or Officer.

Section 9. The Corporation shall indemnify any Officer or Director against any and all claims and liabilities either civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with any action, suit or proceeding, including any appeal thereof, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Provided, however, that no such Officer or Director shall be indemnified against or be reimbursed for any expenses incurred in connection with any claim or liability arising out of his own willful misconduct or gross negligence.

Expenses (including attorneys' fees) incurred by any Officer or Director of the Corporation in defending any such civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon (1) a preliminary determination by the Board of Directors by a majority vote of a quorum consisting of Directors who are not parties to such action, suit or proceeding or by the membership of the Corporation by a majority vote of a quorum consisting of members who are not parties to such action, suit or proceeding, that the Officer or Director acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation; and (2) upon the agreement of the Officer or Director to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified as authorized by these Bylaws or by law.

The right of indemnification hereinabove provided for shall not be exclusive of any rights to which any Officer or Director of the Corporation may otherwise be entitled by law.

ARTICLE VIII
Duties of Directors

Section 1. The Board of Directors is subject to restrictions of law, the Articles of Incorporation and these Bylaws, shall exercise all powers of the Corporation and, without prejudice to or limitation upon its general powers, it is hereby expressly provided that the Board of Directors shall have, and is hereby given, full power and authority (to be exercised by resolution duly adopted by the Board) in respect to the matters and as hereinafter set forth:

- a. To pass upon the qualifications of members and to cause to be issued appropriate memberships.
- b. To select and appoint all officers, agents or employees of the Corporation or remove such agents or employees of the Corporation for just cause, prescribe such duties and designate such powers as may not be inconsistent with these Bylaws, fix their compensation and pay for faithful services.
- c. To borrow from any source, money, goods or services and to make and issue notes and other negotiable and transferable instruments, mortgages, deeds of trust and trust agreements and to do every act and thing necessary to effectuate the same.
- d. To prescribe, adopt and amend, from time to time, such equitable uniform policies as, in their discretion, may be deemed necessary or inconvenient for the conduct of the business and affairs of the Corporation and the guidance and control of its Officers and employees and to prescribe penalties for the breach thereof.
- e. To order, at least once each year, an audit of the books and accounts of the Corporation by a competent certified public accountant. The report prepared by such accountant shall be submitted to the members of the Corporation at their Annual Meeting, together with a proposed budget for the ensuing year. Copies of such audits and budgets shall be submitted to any parties as may be required by other agreements.
- f. To fix the charges, rates and connection fees to be paid by each member for services rendered by the Corporation to him, the time of payment and the manner of collection.
- g. To require all officers, agents and employees charged with responsibility for the custody of any of the funds of the Corporation to give adequate bonds, the cost thereof to be paid by the Corporation, and it shall be mandatory upon the Directors to so require.
- h. To select one or more financial institutions to act as depositories of the funds of the Corporation and to determine the manner of receiving, depositing and disbursing the funds of the Corporation and the form of checks and the person or

persons by whom the same shall be signed, with the power to change such financial institutions and the person or persons signing such checks and the form thereof at will.

i. With the approval of the majority of the members present at any regular or special meeting, to levy assessments against the membership of the Corporation and to enforce the collection of such assessments by the forfeiture of membership by delinquent members. The Board of Directors shall have the option to declare forfeited any memberships on which assessment has not been paid at any time after ninety (90) days from the date the assessment was due, provided that the Corporation must give the member at least thirty (30) days' written notice at the address of the member on the books of the Corporation, of its intention to declare the forfeiture of his membership if the assessment is not paid, which thirty (30) day period may run concurrently during the ninety (90) day period referenced above.

j. To delegate to the General Manager and other employees or agents as the Board of Directors may determine from time to time those duties and authority necessary to carry out the normal day-to-day operation of the Corporation.

ARTICLE IX

Duties of Officers

Section 1. Duties of President. The President shall preside over all meetings of the Corporation and the Board of Directors, call special meetings of the members and of the Board of Directors, perform all acts and duties usually performed by an executive and presiding officer and sign such other papers of the Corporation as he may be authorized or directed to sign by the Board of Directors, provided the Board of Directors may authorize any person to sign any or all checks, contracts and other instruments in writing on behalf of the Corporation. The President shall perform such other duties as may be prescribed by the Board of Directors.

Section 2. Duties of the Vice President. In the absence or disability of the President, one of the four Vice Presidents shall be named by a majority vote of the board members to perform the duties of the President, provided, however, that in case of death, resignation or disability of the President, the Board of Directors may declare the office of President vacant and elect a successor.

Section 3. Duties of the Secretary. The Secretary shall ensure that a complete record is kept of all meetings of the Corporation and of the Board of Directors and shall oversee the charge and supervision of the books and records of the Corporation except the financial records. He shall sign papers pertaining to the Corporation as he may be authorized or directed to do so by the Board of Directors. He shall serve all notices required by law and by these Bylaws, and shall make a full report of all matters and business pertaining to his office to the members at the Annual Meeting. He shall perform such other duties as may be required of him by the Corporation or the Board of Directors. Upon the election of his successor, the Secretary shall turn over to such successor all

books and other property belonging to the Corporation that he may have in his possession.

Section 4. Duties of the Treasurer. The Treasurer shall oversee custody of all corporate funds and financial records, ensure that full and accurate accounts are kept of receipts and disbursements and render account thereof at Annual Meetings of members and whenever else required by the Board of Directors and shall perform such other duties as may be prescribed by the Board of Directors. Upon the election of his successor, the Treasurer shall turn over to him all books and other property belonging to the Corporation that he may have in his possession.

ARTICLE X

Benefits & Duties of Members

Section 1. The Corporation will maintain and operate a main distribution pipeline or lines from the source of water supply and service lines from the main distribution pipeline or lines to the property line of each member of the Corporation, at which points, designated as delivery points, meters to be purchased, installed, owned and maintained by the Corporation shall be placed. Where a distribution line exists and lies immediately adjacent and parallel to the property to be served, the Corporation will, at its cost, run a service line from the distribution line to the property line. Otherwise upon application and approval by the Board of Directors of the Corporation, the Corporation may make connections and/or line extensions to serve other properties upon payment of the costs for the extension of its service or distribution lines as may be required to render service. The Corporation will also purchase and install a cut-off valve in each service line from its main distribution line or lines. Such cut-off valve is to be owned and maintained by the Corporation and to be installed on some portion of the service line owned by the Corporation. The Corporation shall have the sole and exclusive right to use such cut-off valve to turn it on and off.

Section 2. Each member shall be entitled to purchase from the Corporation, pursuant to such agreements as may from time to time be provided and required by the Corporation, such water for domestic, commercial, agricultural, industrial or other purposes as a member may desire, subject, however, to the provisions of these Bylaws and to such rules and regulations as may be prescribed by the Board of Directors. Each member shall be entitled to have delivered to him through a single service line only such water as may be necessary to supply the needs of such member, including his family, business, agricultural or industrial requirements. The water delivered through each service line shall be metered and the charges for such water shall be determined separately, irrespective of the number of service lines owned by a member.

Section 3. In the event the total water supply shall be insufficient to meet all of the needs of the members or in the event there is a shortage of water, the Corporation must follow any guidelines or restrictions set forth by governing bodies, including but not limited to South Florida Water Management District, City of Sanibel and Lee County. In the event the Corporation must restrict water usage for operational reasons, the priority of use shall be (in order) public safety, domestic consumption, commercial use and irrigation.

Section 4. The Board of Directors, with the consent (if and to the extent required) of the Lee County Commission and the City of Sanibel, shall fix all charges, rates and fees, shall fix the date for the payment and shall notify each member of the amount and dates for payment thereof. A member to be entitled to the delivery of water shall pay such charges at the office designated by the Corporation on or prior to the dates fixed by the Board of Directors. The failure to pay water charges duly imposed may result in the imposition of penalties in accordance with the Service Rules & Regulations of the Corporation, as the same may be amended from time to time. Furthermore, any member who is delinquent for a period of ninety (90) days or more in payment of such charges, rates and fees (plus any applicable penalties or other charges), shall not be in good standing and therefore shall not have any right to vote on a matter presented to the members for a vote while so delinquent.

Section 5. The Board of Directors shall be authorized to require each member to enter into water user's agreements which shall embody the principles set forth in the foregoing sections of this article, including the obligation to pay all charges allocated to that member.

ARTICLE XI **Surplus Funds**

Section 1. It is not anticipated that there will be any net income. If there should be any, then at the end of the fiscal year, after paying the expenses of the Corporation for operation and otherwise and after setting aside reserves for depreciation on all buildings, equipment and office fixtures and such other reserves as the Board of Directors may deem proper and after providing for payment on interest and principal of obligations and amortized debts of the Corporation and after providing for the purchase of proper supplies and equipment, the net earning shall be accumulated in a surplus fund for the purpose of replacing, enlarging, extending and repairing the system and property of the Corporation and for such other purposes as the Board of Directors may determine to be for the best interests of the Corporation.

ARTICLE XII **Amendments**

Section 1. These Bylaws may be repealed or amended by a vote of the majority of the members present at any regular meeting of the members or at any special meeting of the members called for that purpose. Notice of any amendment to be made at a special meeting of the members must be given at least ten (10) days before such meeting and must set forth the amendments to be considered.

Section 2. The most current version of "Robert's Rules of Order" shall be the parliamentary guide for all matters of procedure not specifically covered by corporate regulations or by special rules or procedures adopted by the Board of Directors.

ARTICLE XIII **Miscellaneous**

References in these Bylaws to the masculine gender shall be deemed to include the feminine and neuter, and references in these Bylaws to the singular shall include the plural, and vice versa, where appropriate. References in these Bylaws to a noun, verb, adjective, or adverb shall be deemed to include the inflected form thereof, and vice versa, where appropriate. References in this Operating Agreement to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder (and any corresponding provisions of succeeding law). References in these Bylaws to the word "include," "includes," or "including" shall not be limiting, but shall be deemed to be followed by the phrase "without limitation." References in these Bylaws to words such as "herein," "hereinafter," "hereof," "hereto," and "hereunder" refer to these Bylaws as a whole, unless the context otherwise requires. References in these Bylaws to "Article," "Articles," "Section" or "Sections" are to an article, articles, section, or sections of these Bylaws unless otherwise specified.