

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

CHAPTER 40C-1, F.A.C.

ORGANIZATION AND PROCEDURE

Revised
December 27, 2010



CHAPTER 40C-1
ORGANIZATION AND PROCEDURE (Formerly 16I-1)

40C-1.002	Definitions
40C-1.003	The Governing Board
40C-1.004	District Funds
40C-1.012	Employee Deferred Compensation Program
40C-1.1001	Applicability of the Uniform Rules of Procedure
40C-1.1002	Variances from Section 373.414, F.S., Paragraph 40C-4.301(1)(e) and Rule 40C-4.302, F.A.C
40C-1.1003	Variances from Water Well Construction Requirements
40C-1.1004	Variances from Water Shortage Rules (Chapter 40C-21, F.A.C.)
40C-1.1005	Time for Consideration of Emergency Petition for Variances
40C-1.1006	Formal Determination of Wetlands and Other Surface Waters
40C-1.1007	Point of Entry Into Proceedings
40C-1.1008	Timeframe for Providing Requested Information
40C-1.1009	Emergency Authorization for Activities Regulated Under Part IV of Chapter 373, F.S
40C-1.1010	Emergency Well Construction Permits
40C-1.1011	Submitting Notice of Intent for Consumptive Use Permits Under Rule 40C-20.042, F.A.C
40C-1.1012	Submitting Notice of Intent for Consumptive Use Permits Under Chapter 40C-22, F.A.C
40C-1.1013	Processing Procedures for Noticed General Permits Under Chapter 40C-400, F.A.C.
40C-1.106	Interagency Agreements
40C-1.1101	Amendments to and Releases of Conservation Easements.
40C-1.135	Delegations of Authority
40C-1.601	General
40C-1.602	Licenses or Permits Required
40C-1.603	Permit Fees
40C-1.604	Conceptual Approval Permit Procedures
40C-1.607	Issuance of a License or Permit
40C-1.608	Denial of a License or Permit
40C-1.610	License or Permit Renewal
40C-1.612	Transfer of Ownership or Permit
40C-1.701	General
40C-1.702	Public Notice
40C-1.703	Letter of Interest
40C-1.704	Competitive Selection
40C-1.705	Competitive Negotiations
40C-1.706	Reservation of Rights
40C-1.708	Protest of Action
40C-1.709	General
40C-1.711	Selection of the Design-Criteria Professional

40C-1.712	Design Criteria Package
40C-1.713	Minimum Qualifications for Firms Providing Design-Build Services
40C-1.714	Request for Qualifications
40C-1.715	Qualification of Firms
40C-1.716	Proposal Selection
40C-1.717	Competitive Negotiations for Design-Build Services
40C-1.718	Rejection of Proposals
40C-1.719	Emergency Procurement
40C-1.720	Reuse of Plans
40C-1.721	Protest of Action

40C-1.002 Definitions.

Definitions in Chapters 120, 373, and 403, F.S., and all other District rules promulgated to implement the Florida Statutes shall apply in this chapter. The following words and phrases shall have the meanings set forth below unless a different meaning is plainly required by the context:

(1) “Department” means the Department of Environmental Protection.

(2) “District” or “Water Management District” means the St. Johns River Water Management District or its successor agency.

(3) “Executive Director” means the Executive Director of the District.

(4) “Governing Board” or “Board” means the Governing Board of the District.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.52, 373.019, 373.203, 373.303, 373.403, 403.031, 403.803, 403.911 FS. History– New 1-22-76, Amended 3-1-77, Formerly 16I-1.03, 40C-1.03, 40C-1.031, Amended 8-1-89, 10-3-95, 11-11-03.

40C-1.003 The Governing Board.

(1) A Governing Board composed of nine members who reside within the District is responsible for governing the District as authorized by law. In addition to the powers and duties given to the Board in Chapters 120 and 373, F.S., the Board may exercise powers delegated to it by the Department.

(2) The Governing Board will meet the second Tuesday of each month unless otherwise announced.

(3) The Governing Board may create standing committees, and the chair of the Board shall appoint members to each standing committee.

(4) On an annual basis Board members will meet and elect a chair, vice chair, secretary, and treasurer. The Executive Director will serve as the assistant secretary.

(5) The Board has adopted a seal, a copy of which is on file with the District Clerk.

(6) The minutes of all meetings and other proceedings of the Board are recorded in books entitled “Governing Board Minutes” which shall be kept at District headquarters.

(7) The Board may vote only when a quorum of its members is present and only at a public meeting which has been properly noticed. A quorum consists of five members. A simple majority of members present is necessary to carry a motion.

(8) No member of the Governing Board who is present at any meeting at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, except when, with respect to any such member, there is, or appears to be, a

possible conflict of interest under the provisions of Section 112.311, 112.313 or 112.3143, F.S. In such case, the member shall comply with the disclosure requirements of Section 112.3143, F.S.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 122.326, 373.073, 373.079, 373.083, 373.103 FS. History–New 8-1-89, Amended 10-8-91, 8-12-08.

40C-1.004 District Funds.

(1) District funds may be disbursed with the Board’s approval by check bearing the signatures or facsimile signatures of the secretary-treasurer or assistant secretary-treasurer, and the chairman or vice chairman. All general and interfund checks issued shall be reported to the Board at its next regular meeting.

(2) District funds may be disbursed, by wire or electronic transfer according to the procedure set forth in Policy 99-02, as revised 4-13-04, entitled “Wire or Electronic Transfer (W/EFT) Procedures,” which is hereby incorporated by reference.

Rulemaking Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53, 373.553 FS. History–New 10-8-91, Amended 3-1-92, 1-3-00, 4-13-04.

40C-1.012 Employee Deferred Compensation Program.

This rule establishes a deferred compensation program, under Section 112.215, F.S., and Section 457 of the Internal Revenue Code, whereby District employees may voluntarily defer all or part of their otherwise payable compensation pursuant to a deferred compensation plan approved by the Governing Board of the District. This program establishes a supplementary retirement plan for participating employees who wish to defer and designate a portion of their income into an approved plan of investment programs on a tax-favored basis.

(1) Administration of the Plan. The Board shall approve and administer the deferred compensation plan, or otherwise provide for such administration. Prior to implementation of an approved plan, the Board shall obtain an opinion from the appropriate federal agency or agencies which states that the compensation deferred and investment products purchased under the plan will not be included in the participating employee’s taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of Social Security coverage, the state retirement system or for any other retirement, pension or benefit program established by law.

(2) Election to Participate and Deferred Amount.

(a) Pursuant to an approved plan, and upon written agreement with a participating employee, deferral of compensation may be accomplished by the payroll deductions, with such funds thereafter administered and remitted to the investment products designated by the participating employee under the plan.

(b) The maximum amount deferred by a participating employee under an approved plan for a taxable year shall not exceed the limitations established under Section 457 of the Internal Revenue Code.

(3) Investment of Deferred Amount.

(a) The Board may establish such plan or plans of deferred compensation for District employees, including such investment vehicles or products as provided thereunder, as may be available through duly qualified or licensed private corporations or institutions offered in compliance with applicable federal and state laws and regulations. The Board may approve one

or more of such plans for implementation on behalf of the District and its employees.

(b) The amount deferred by a participating employee, under the terms of an approved plan and in such proportions as designated by the employee, may be used to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or placed into a savings account, or into such other investment products as may have been approved for the purposes of fulfilling the objectives of the plan.

(4) Receipt of Benefits. A participating employee shall be eligible to receive benefits, as provided in an approved plan, upon separation from the District or upon occurrence of an unforeseen emergency.

(5) Other Benefit Programs. Any deferred compensation plan approved as provided by this rule shall exist and serve in addition to any other retirement, pension or benefit systems established by the District and shall not supersede, obviate, or reduce any benefits provided by the Florida Retirement System or by any other retirement, pension, or benefit program established by law.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 112.215, 373.044 FS. History—New 8-25-83, Formerly 40C-1.21, 40C-1.211, Amended 8-1-89.

40C-1.1001 Applicability of the Uniform Rules of Procedure.

Except as otherwise provided, the Uniform Rules of Procedure, Chapters 28-101 through 28-110, F.A.C., shall apply to the District.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.54(5) FS. History—New 8-4-98.

40C-1.1002 Variances from Section 373.414, F.S., Paragraph 40C-4.301(1)(e) and Rule 40C-4.302, F.A.C.

(1) The Governing Board is authorized to grant a variance from the provisions of Section 373.414, F.S., and paragraph 40C-4.301(1)(e) and Rule 40C-4.302, F.A.C., pursuant to Section 403.201, F.S.

(2) A person seeking a variance must demonstrate that any hardship asserted as a basis of the need for a variance is peculiar to the affected property and not self-imposed and that the grant of a variance will be consistent with the general intent and purpose of this chapter.

(3) Any person seeking a variance shall file a petition for a variance containing the following information:

(a) The petitioner's name and signature.

(b) The statute or rule from which the variance is sought.

(c) Facts showing that a variance should be granted for one of the reasons in Section 403.201, F.S.

(d) The time period for which the variance is sought, including the reasons and facts supporting the time period.

(e) The requirements which the petitioner can meet including the date or time when the requirements will be met.

(f) The steps or measures the petitioner is taking to meet the requirement from which the variance is sought. If the request is pursuant to Section 403.201(1)(b), F.S., the petitioner shall include a schedule when compliance will be achieved.

(g) The social, economic and environmental impacts on the applicant, residents of the area and of the state if the variance is granted.

(h) The social, economic and environmental impacts on the applicant, residents of the area and of the state if the variance is denied.

(4) The District shall review the application within 30 days after receipt to determine if the application is complete. If the application is determined to be incomplete, the applicant shall be afforded an opportunity to supply additional information before the District evaluates the merits of the request.

(5) The District shall prepare a notice of intended agency action regarding the petition for a variance. The District shall publish this notice one time in the Florida Administrative Weekly, and one time in a newspaper of general circulation, as defined in Section 50.031, F.S., in the county in which the property for which the variance is sought is located.

(6) Renewals of variances shall be applied for in the same manner as the initial variance. *Rulemaking Authority 373.044, 373.113, 373.414(9),(17) FS. Law Implemented 373.414(9),(17), 403.201 FS. History—New 10-3-95, Formerly 40C-4.311, Amended 8-4-98.*

40C-1.1003 Variances from Water Well Construction Requirements.

(1) The Board finds that in certain cases compliance with all the requirements of Chapter 40C-3, F.A.C., may result in an undue hardship in the construction, repair or abandonment of wells.

(2) An affected person may request a variance from specific requirements by making a written request to the District for a well prior to construction of the well which provides at least the following information:

(a) Licensed contractor's name and number unless exempted by subsection 373.326(2), F.S.;

(b) The name and telephone number of property owner upon which the well is proposed to be constructed, repaired, or abandoned;

(c) Well location including at a minimum section, township, range, map directions, and county;

(d) Casing diameter and type proposed for the well;

(e) Well use;

(f) Specific criterion or standard from which the variance is being requested; and

(g) Specific facts which demonstrate the undue hardship if the criterion or standard is applied without grant of variance.

(3) The Executive Director or his designee shall grant the variance if the proposed alternative is in accordance with accepted public health and sanitary engineering practices required by statute or rule for water well construction, and will not adversely affect the water resource. The variance shall be the minimum necessary to ameliorate the hardship.

(4) When issuing a variance, the Executive Director or his designee may impose other conditions as necessary to protect the resource consistent with Part III, of Chapter 373, F.S.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.308, 373.326 FS. History—New 8-4-98.

40C-1.1004 Variances from Water Shortage Rules (Chapter 40C-21, F.A.C.).

(1) All users requesting relief from the provisions of Chapter 40C-21, F.A.C., shall file a petition for variance but must conform to water use restrictions until the District grants the variance.

(2) Criteria for Issuance – No petition for variance will be approved unless the petitioner

affirmatively demonstrates that one or more of the following circumstances exists:

(a) The variance is essential to protect health or safety; or
(b) Compliance with the particular rule or order from which a variance is sought will require measures which, because of their extent or cost, cannot be accomplished within the anticipated duration of the shortage; or

(c) Compliance with the particular rule or order from which a variance is sought will result in a substantial economic, social or health burden on the applicant or those served by the applicant, significantly greater than the burden on others within that use class; or

(d) Alternative restrictions which achieve the same level of demand reduction as the restrictions from which a variance is sought are available and are binding and enforceable.

(3) Limiting Conditions – Variances granted will be subject to the following conditions:

(a) The variance granted will be the minimum necessary to alleviate the circumstance for which the variance was requested under subsection (2);

(b) All variances will expire upon a declaration by the Board that a water shortage no longer exists or that a new water shortage phase is declared;

(c) Variances granted under paragraph (2)(b) will prescribe a timetable for compliance with the restrictions from which a variance was sought;

(d) The variance will only apply to district water shortage requirements and not to other local governmental restrictions.

(4) Petitions for Variance – The petition will contain the following:

(a) The petitioner's name and address;

(b) The specific rule or order from which the petitioner is requesting relief;

(c) A detailed statement of the facts which the petitioner believes demonstrate that the request qualifies for a variance under subsection (2), including reports by qualified technical experts;

(d) A description of the relief desired;

(e) The period of time for which the variance is sought, including the reasons and facts in support thereof;

(f) The damage or harm resulting or which may result to the petitioner from compliance with the rule or order;

(g) The restrictions which the petitioner can meet and the date when the petitioner can comply with such restrictions;

(h) The steps the petitioner is taking to meet the rule or order from which the variance is sought and when compliance will be achieved; and

(i) Any other information the petitioner believes is material.

(5) Procedures.

(a) Within five working days after receipt of a petition for variance, the staff will recommend to the Executive Director whether the petition complies with the provisions of subsections (2) through (4). The recommendation will be in writing and shall constitute proposed agency action. A copy of the recommendation will be forwarded to the petitioner.

(b) The Executive Director shall review the petition and the staff recommendation. Petitions which do not require immediate action or which do not comply with the provisions of subsections (2) through (4) shall be deferred for Board action. Petitions which require immediate action and which comply with the provisions of subsections (2) through (4) shall be temporarily granted by the Executive Director. Orders temporarily granting a petition will be presented to the Board for concurrence, rejection or modification.

(c) The Board shall consider all deferred petitions as well as those temporarily granted by the Executive Director, at its next regularly scheduled meeting. The Board shall review the petition for compliance with the provisions of subsections (2) through (4), shall grant or deny the deferred petitions and shall either concur in, reject, or modify, those petitions temporarily granted by the Executive Director. All Board action shall be by written order and copies shall be furnished to the petitioner and the appropriate law enforcement officials. A petitioner whose variance has been granted will be furnished an appropriate notice of water shortage variance which shall be prominently displayed at the petitioner's place of use.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 1-1-84, Formerly 40C-21.275, Amended 8-4-98.

40C-1.1005 Time for Consideration of Emergency Petition for Variances.

When a petition for an emergency variance or waiver under Section 120.542(3), F.S., and Rule 28-104.005, F.A.C., requires action by the Governing Board, the Board shall grant or deny a petition for emergency variance or waiver within 30 days of its receipt or at the next regularly scheduled meeting for which notice may be properly given.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.542 FS. History—New 8-4-98.

40C-1.1006 Formal Determination of Wetlands and Other Surface Waters.

(1) Pursuant to subsection 373.421(2), F.S., a real property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in real property may petition the District for a formal determination for that property. A formal determination means the District will determine the locations on the property of the landward extent (boundaries) of wetlands and other surface waters defined in Chapter 62-340, F.A.C., as ratified in Section 373.4211, F.S.

(2) To petition for a formal determination, the petitioner must submit to the District the following:

(a) Five copies of completed form 40C-4.900(2), including copies of all items required by that form, and

(b) A non-refundable formal determination fee as prescribed in Rule 40C-1.603, F.A.C.

(3)(a) Within 30 days of receipt of a petition for a formal determination, the District shall notify the petitioner of any additional information which may be necessary to complete review of the petition. The District shall complete the determination and shall issue a notice of intended agency action within 60 days after the petition is deemed complete. The District shall publish the notice of intended agency action on the petition in a newspaper of general circulation in the county or counties where the property is located.

(b) The provisions of Sections 120.57 and 120.59, F.S., apply to formal determinations made pursuant to this section. Any person whose substantial interests will be affected by the District's proposed action on the petition may request an administrative hearing on the proposed action. If no request for an administrative hearing is filed, the District will then take final action on the petition for the formal determination.

(4) A petitioner can request a formal determination consisting of a certified survey, an approximate delineation, or combinations thereof as described in subsection 12.5.2 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C.

(5) The executive director is delegated the authority to take final action on petitions for

formal determinations under this section. The executive director shall issue a formal determination only if the petitioner has satisfied all the requirements of this section.

(6) A formal determination shall be binding for five years provided physical conditions on the property do not change so as to alter the boundaries of the wetlands and other surface waters during that period.

(7) A petition for a new formal determination for a property for which a formal determination already exists shall require the reduced fee set forth in Rule 40C-1.603, F.A.C., provided:

(a) Physical conditions on the property have not changed so as to alter the boundaries of the wetlands and other surface waters during that period;

(b) The rules setting forth the methodology used to delineate the landward extent of wetlands or other surface waters have not changed since the previous formal determination; and

(c) The petition is submitted within 60 days prior to the existing determination's expiration.

(8) Pursuant to subsection 373.421(4), F.S., the Governing Board may revoke the formal determination upon a finding that the petitioner has submitted inaccurate information to the District.

Rulemaking Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2)-(5) FS. History—New 11-12-91, Amended 11-30-92, 10-3-95, Formerly 40C-4.042, Amended 8-4-98.

40C-1.1007 Point of Entry Into Proceedings.

(1) For all District permitting decisions, the District shall publish, or inform a permit applicant that the applicant has the right or obligation to publish, written notice of a District decision in the Florida Administrative Weekly or a newspaper of general circulation as set forth in Chapter 50, F.S., in the county or counties affected by such decision or where the activity is proposed. In the case of a permitting decision where the District does not publish notice, the applicant may publish the notice on its own initiative.

(2)(a) "Receipt of written notice of a District decision" as set forth in Rule 28-106.111, F.A.C., means receipt of either written notice that the District intends to take or has taken final agency action, or publication of notice that the District intends to take or has taken final agency action. If the District's Governing Board takes action which substantially differs from a written notice of the District's decision describing intended action, persons who may be substantially affected shall have an additional 21 days, or for consolidated notice of intent under Section 373.427, F.S., an additional 14 days, from the date of receipt of notice of said action to request an administrative hearing, but this request for administrative hearing shall only address the substantial deviation.

(b) Receipt of written notice of a District decision shall be deemed to be either the fifth day after the date on which the written notice is deposited in the United States mail if actual notice is mailed to the petitioner, or the date that notice is published if actual notice is not mailed to the petitioner.

(3) When publication is made of the written notice of a District decision on a permitting matter, the notice, shall be prepared by the District and shall contain at a minimum:

- (a) Name of applicant and a brief description of the proposed activity and its location;
- (b) Location of the application and its availability;
- (c) Statement of the District's intended action;
- (d) Scheduled date of Board action, if applicable;

(e) Notification of administrative hearing opportunity; and
(f) Notification of whether mediation under Section 120.573, F.S., is available as an alternative remedy.

(4) When the District requires a permit applicant to publish written notice of a District decision, or the permit applicant elects to do so, the applicant shall provide an affidavit of publication to the District within 7 days of publication.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.569, 373.413 FS. History—New 8-4-98.

40C-1.1008 Timeframe for Providing Requested Information.

The applicant shall have 120 days from receipt of a request for additional information regarding a permit or license application undergoing review by the District to submit that information to the District. If an applicant requires more than 120 days in which to complete an application, the applicant may notify the District in writing of the circumstances and for good cause shown, the application shall be held in active status for additional periods commensurate with the good cause shown. As used herein, good cause means a demonstration that the applicant is diligently acquiring the requested information, and that the additional time period requested is both reasonable and necessary to supply the information. The Executive Director, Assistant Executive Director, the Department Directors and Assistant Department Directors of the Departments of Water Resources and Resource Management, the Director of the Division of Water Use Regulation and any Service Center Director are authorized to make a determination that such good cause has been provided. Any application which has not been completed by the applicant within the given time period following a request for additional information by the District shall be subject to denial. The requested information or written request showing good cause for additional time may be submitted to the District at any time prior to the denial of the application. Denial of an application due to failure to submit requested additional information shall be a denial without prejudice to the applicant's right to file a new application. The applicant may request a Section 120.569, F.S., hearing pursuant to Chapter 28-106 and Rule 40C-1.1006, F.A.C., to dispute the necessity of the information required.

Rulemaking Authority 120.54(5), 373.044, 373.113 FS. Law Implemented 120.54(5), 120.60, 373.083(5), 373.118 FS. History—New 8-4-98, Amended 1-11-99, 4-10-02.

40C-1.1009 Emergency Authorization for Activities Regulated Under Part IV of Chapter 373, F.S.

(1) Permission to begin construction, alteration, operation, maintenance, abandonment, or removal of any system requiring a permit under Chapter 40C-4, 40C-40, 40C-42, 40C-44, or 40C-400, F.A.C., prior to the issuance of a permit may be applied for, in writing, when emergency conditions can be alleviated by such construction, alteration, operation, maintenance, abandonment, or removal of the system. Emergency conditions are defined as conditions which pose a present or imminent danger and require immediate action to protect: public health, safety or welfare; the health of animals, fish or aquatic life; a public water supply; or recreational, commercial, industrial, agricultural or other reasonable uses. Unless otherwise provided in the emergency authorization, the issuance of an emergency authorization shall not obviate the need for a permit. If a permit is not obtained within a period of one year following execution of the emergency authorization, then such system shall be returned to the condition that existed prior to execution of the emergency authorization. The one year time limit shall be tolled during any

challenge or appeal of the permit which delays the issuance of the permit or stays the effect of the permit.

(2) The Governing Board authorizes the Executive Director to issue emergency authorizations. An emergency authorization issued by the Executive Director shall be presented to the Board for concurrence at its next meeting. The failure to receive the Board's concurrence shall invalidate the emergency authorization.

Rulemaking Authority 120.54(5), 373.044, 373.113, 373.418 FS. Law Implemented 120.54(5), 373.119, 373.413, 373.416, 373.418, 373.426, 373.439 FS. History—New 12-7-83, Formerly 40C-4.451, 40C-4.0451, Amended 8-4-98, 10-11-01.

40C-1.1010 Emergency Well Construction Permits.

(1) Emergency well construction permits shall be issued by the executive director or his designee when one of the following conditions exist which justifies the issuance:

(a) An existing well supplying a particular use has failed and must be immediately replaced;

(b) The health, safety, or general welfare of the people affected by said emergency would be jeopardized without such authorization;

(c) Emergency authorization is needed to immediately mitigate or resolve potentially hazardous degradation of water resources; or

(d) A serious set of unforeseen circumstances occurs which creates the emergency.

(2) If Chapter 40C-2, F.A.C., Consumptive Use, also applies to the well, an emergency permit may be issued only if, in addition to qualifying under subsection (1) above, an application for a Consumptive Use Permit (C.U.P.) has been filed with the District. Issuance of an emergency permit will not be evidence of any entitlement to the C.U.P.

(3) The applicant for an emergency permit shall submit the application and fee in accordance with Rule 40C-3.101, F.A.C., along with any other requested information within one business day after making oral application.

(4) Rule 40C-3.411 and Part II of Chapter 40C-3, F.A.C., shall apply to all construction performed under an emergency permit.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.308, 373.313, 373.335, 373.342 FS. History—New 10-14-84, Formerly 40C-3.451, 40C-3.0451, Amended 9-17-89, Formerly 40C-3.451, Amended 8-4-98.

40C-1.1011 Submitting Notice of Intent for Consumptive Use Permits Under Rule 40C-20.042, F.A.C.

(1) At least 30 days prior to the anticipated commencement of water use requiring a permit under Rule 40C-20.042, F.A.C., the applicant shall file a Notice of Intent to Use Water Pursuant to General Permit with the District.

(2) The Notice shall include the information requested on District form 40C-2-1082-1 Individual and Standard General Consumptive Use Permit Application, which is hereby incorporated by reference.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.116, 373.118, 373.229 FS. History—New 7-23-91, Amended 4-25-96, Formerly 40C-20.112, Amended 8-4-98.

40C-1.1012 Submitting Notice of Intent for Consumptive Use Permits Under Chapter 40C-

22, F.A.C.

(1) Any person seeking to conduct a consumptive use pursuant to a noticed general permit under Chapter 40C-22, F.A.C., shall provide notice to the District by submitting a complete Notice of Intent to Use Noticed General Permit with the District on the appropriate application form including the application fee required in Rule 40C-1.603, F.A.C., at least 30 days prior to commencing the consumptive use qualifying for a noticed general permit. For the purposes of this subsection, the application form is only considered submitted when the District actually receives it.

(2) If the District notifies the applicant that the proposed consumptive use does not qualify for the noticed general permit due to an error or omission in the notice, the applicant shall have 60 days from the date of the notification to amend the notice and submit additional information to correct such error or omission. If the applicant amends the notice and submits additional information correcting the error or omission within the 60 day time limit, no additional application fee shall be required. If the District does not mail a notice informing the applicant that the withdrawal does not qualify for this noticed general permit within 30 days of receipt of the original notice to use this general permit, or amended notice to use this noticed general permit if an amended notice is submitted, the applicant may conduct the consumptive use authorized by the noticed general permit.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.116, 373.118, 373.229 FS. History—New 4-25-96, Formerly 40C-22.010, Amended 8-4-98.

40C-1.1013 Processing Procedures for Noticed General Permits Under Chapter 40C-400, F.A.C.

(1) A noticed general permit authorizes the construction, operation, maintenance, alteration, abandonment, or removal of certain minor surface water management systems as set forth in Chapter 40C-400, F.A.C., after notice is provided to the District. Whenever a noticed general permit specifies procedures different from the procedures in this section, the procedures specified in the noticed general permit will govern.

(2) Any person wishing to construct, operate, maintain, alter, abandon, or remove a surface water management system pursuant to a noticed general permit set forth in this chapter shall provide notice to the District by submitting a complete form 40C-4.900(1), including the appropriate application fee required in Rule 40C-1.603, F.A.C., to the District at least 30 days prior to undertaking construction, operation, maintenance, alteration, abandonment, or removal of the system. For the purposes of this subsection, the application form is only considered submitted when it is actually received by the District.

(3) At the time that the District has received the notice of intent, it will provide public notice that the notice of intent has been filed. Such public notice shall be sent by regular mail to those people who have previously filed a written request for notification of pending applications within the affected area. The notice of intent for a noticed general permit shall be posted on the District website at floridaswater.com.

(4) Any objection as to whether the activity proposed in the notice of intent qualifies for the requested noticed general permit must be filed with the District, in writing, within 14 days of posting of the notice of intent. The objection must state the objector's name and address and identify how the notice of intent fails to meet the requirements of the requested noticed general permit. Once such an objection is received, the procedures applicable to an individual permit application shall be followed in determining compliance with the terms of the noticed general

permit.

(5) If the District determines that the system does not qualify for a noticed general permit, the District shall so notify the applicant by mailing a notification within 30 days of receiving form 40C-4.900(1). For the purposes of this subsection, mailing shall be deemed to occur when the notice is properly addressed, stamped, and deposited in the United States mail, and the postmark date shall be the date of mailing. When the District notifies the applicant that the system does not qualify for a noticed general permit due to an error or omission in the original notice to the District, the applicant shall have 60 days from the date of the notification to amend the notice to use the general permit and submit additional information to correct such error or omission. If the applicant amends the notice to use a noticed general permit and submits additional information correcting the error or omission within the 60 day time limit, no additional application fee will be required for the noticed general permit. If the District does not mail the notice informing the applicant that the system does not qualify for a noticed general permit within 30 days of receipt of the original notice to use the general permit, or amended notice to use the general permit if an amended notice is submitted, the applicant may conduct the activity authorized by the noticed general permit.

(6) If the District notifies an applicant that the system for which a noticed general permit is sought does not qualify for the noticed general permit the applicant may apply for a standard general or individual permit. The application fee for the noticed general permit shall be applied to the application fee for a standard general or individual permit if the applicant applies for such a permit within 60 days of notification by the District.

(7) All construction, operation, maintenance, alteration, abandonment, or removal of any system pursuant to a noticed general permit must comply with the provisions of that general permit.

(8) For systems which qualify for a noticed general permit, the District will not publish, or require the applicant to publish, newspaper notice of the notice submitted to qualify for the permit. However, persons qualifying for a noticed general permit may publish, in a newspaper of general circulation in the affected area, a notice of intent to use a noticed general permit.

(9) A noticed general permit shall also constitute certification of compliance with state water quality standards where necessary pursuant to section 401, Public Law 92-500, 33 USC section 1341, for activities that qualify for the noticed general permit and that are performed in accordance with the conditions of the noticed general permit.

(10) If the permit application involves activities located in, on, or over wetlands or other surface waters, then, within three business days of receipt of the application, the District shall forward a copy to the appropriate office of the U.S. Army Corps of Engineers unless specifically authorized by the Corps to do otherwise.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Amended 1-4-96, Formerly 40C-400.211, Amended 8-4-98, 12-27-10.

40C-1.106 Interagency Agreements.

(1) For the purpose of effectively managing the water resources of the state and to improve the efficiency of environmental permitting, the District enters into agreements with the state agencies to coordinate or exercise powers related to or affecting the water resources of the state.

(2) Interagency agreements may be inspected in the office of the District Clerk.

(3) The following agreements have been entered into by the District and are hereby incorporated by reference:

(a) With the Department regarding delegation of water well construction permitting by Order, dated August 20, 1974.

(b) With the Department to jointly permit public supply water wells, dated January 20, 1981.

(c) With the Department for the establishment of an ambient ground water quality monitoring program, dated December 14, 1983 to be continued annually by agreement.

(d) With the Department for the establishment of reciprocal services to support co-location of permitting personnel, dated December 14, 1983.

(e) With the Department to jointly permit projects involving the construction and operation of facilities for underground injection of water, dated March 30, 1984.

(f) With the Department to certify water quality standards under the Federal Clean Water Act, dated November 27, 1984.

(g) With the Department for implementation of the Southeast Lakes Project, dated October 12, 1987.

(h) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007.

(i) With the Department of Health and Rehabilitative Services to investigate the potential for surface water contamination of Indian River Lagoon from on-site sewage disposal systems, dated December 29, 1988.

(j) With the Department of Health and Rehabilitative Services to develop a management plan for mosquito impoundments adjacent to the Indian River Lagoon area, dated January 1, 1989.

(k) With the Department of Natural Resources for a control program for aquatic weeds, dated October 1988.

(l) With the Department of Natural Resources to develop and implement a pilot program for public awareness pertaining to the Indian River Lagoon, dated September 30, 1988.

Rulemaking Authority 373.044, 373.046, 373.113 FS. Law Implemented 373.016(5), 373.046, 373.103, 373.421(2) FS. History—New 8-1-89, Amended 11-12-92, 10-3-95, 12-3-98, 11-11-03, 7-1-07.

40C-1.1101 Amendments to and Releases of Conservation Easements.

(1) This section establishes the terms and conditions under which the District shall agree to amend or release all or part of a conservation easement conveyed to it, pursuant to Section 704.06, F.S., solely for mitigation or in compliance with other regulatory requirements of the District or another governmental entity. It does not apply to conservation easements that were acquired by the District partly through purchase and partly through a regulatory program. The District's decision to release or amend a conservation easement is a proprietary decision and does not result in any waiver of regulatory requirements. Property owners shall be responsible for obtaining all necessary permits for their construction activities, including any dredging or filling of wetlands. A request for the release or amendment of a conservation easement shall include a copy of the recorded conservation easement; a copy of any conservation easement over other property offered in exchange for the requested release or amendment; and a map showing the location of the recorded conservation easement and any conservation easement offered in

exchange. For the District to agree to release or amend a conservation easement, the request for release or amendment shall satisfy the conditions of any one of the following six categories and the general condition in paragraph 40C-1.1101(1)(g), F.A.C.:

(a) On-site Adjustments. The District shall release or amend a conservation easement under this category when:

1. The on-site acreage of both uplands and wetlands encumbered by conservation easement after the release or amendment shall remain the same or be greater than before the release or amendment of conservation easement; and

2. The ecological value of the on-site acreage of uplands and wetlands encumbered by conservation easement after the release or amendment shall be at least equivalent to the greater of:

a. The ecological value accorded at the time of permit issuance to the on-site acreage of uplands and wetlands preserved by conservation easement; or

b. The current ecological value of the on-site acreage of uplands and wetlands preserved by conservation easement.

3. The District shall use the Uniform Mitigation Assessment Method (UMAM) in Chapter 62-345, F.A.C. (September 12, 2007), to establish ecological values.

4. On-site acreage includes only areas within the boundaries of the construction permit that required the conservation easement or the boundaries of a valid conceptual permit.

(b) Conservation Easements not needed to meet Regulatory Requirements. The District shall release or amend a conservation easement under this category when:

1. The conservation easement was not used as mitigation for permitted impacts or otherwise to meet regulatory requirements, due to the permittee not implementing all or part of the permitted surface water management system and abandoning the permit for those impacts; or

2. The conservation easement encumbers an area where the mitigation has failed to meet permit conditions, despite all reasonably prudent measures being implemented to correct problems with the mitigation, and the permittee has obtained a permit modification for alternative mitigation to offset the impacts and has implemented the alternative mitigation; or

3. The permittee has not commenced construction under the permit that required the conservation easement and has obtained a permit modification approving different mitigation, provided that the release or amendment shall not adversely affect the ecological value of other conservation lands or interests in lands; or

4. For a mitigation bank or a permitted bank phase, no bank credits have been sold or used from the bank or permitted phase, as applicable; and the relevant permit for the mitigation bank or permitted phase has been surrendered to the District or to the Department of Environmental Protection for mitigation banks permitted by that agency.

(c) Public Projects. For the purpose of this paragraph, public projects are projects proposed or contracted by, or implemented on behalf of, an entity with the power of eminent domain to condemn the conservation easement, and may include linear facilities such as electric transmission and distribution facilities, pipeline transmission and distribution facilities, or public transportation corridors. For public projects, the District shall voluntarily release or amend the conservation easement under the following terms and conditions:

1. The entity making the request shall provide an analysis that demonstrates the public project cannot practicably be located in a manner that will avoid the conservation easement. If the analysis demonstrates that avoiding the easement is not technically capable of being done, is not economically feasible, or will adversely affect public safety through the endangerment of

lives or property, location of the project in a manner that will avoid the easement shall not be considered “practicable” under paragraph 40C-1.1101(1)(c), F.A.C.

2. If the public project cannot be located to avoid the conservation easement pursuant to subparagraph 40C-1.1101(1)(c)1., F.A.C., the public project, to the extent practicable, shall be located, and hence the release area shall be identified, as follows:

a. Adjacent to or within existing utility rights-of-way, along the boundary of the existing conservation easement, or adjacent to or within existing firelines or roadways;

b. To avoid wetlands or uplands encumbered by the existing conservation easement that are used by the bald eagle (*Haliaeetus leucaphalus*) or listed wildlife species as defined in subsection 40C-4.021(20), F.A.C.;

c. To avoid a plant community within the existing conservation easement that has been classified by a state rank of three (3) or lower in the document titled “FNAI [Florida Natural Areas Inventory] – Element Tracking Summary” (October 1, 2008)

d. To minimize impacts to wetlands and other surface waters located within the existing conservation easement; and

e. To avoid fragmentation of habitat and protect corridors for wildlife movement.

3. In exchange for the release or amendment, the entity making the request must provide the District with a conservation easement having substantially similar terms over other lands within the same drainage basin that have equivalent or greater ecological and monetary value to the area being released or amended. Alternatively, for public projects that are expansions of existing projects, but are not extensions of linear facilities, the entity making the request may for the release or amendment provide credits from a mitigation bank with equivalent or greater ecological and monetary value, but no less than 0.01 credits, or participate in a regional off-site mitigation area (ROMA) sponsored by the Department or the District with equivalent or greater ecological and monetary value, located within the same drainage basin as the conservation easement being released or amended.

a. To establish relative ecological values, the District shall use the Uniform Mitigation Assessment Method (UMAM) in Chapter 62-345, F.A.C. For the conservation easement to be released or amended, the District shall determine the reduction in ecological value that would occur if the request were approved, based on the ecological value accorded to the conservation easement at the time of permit issuance, or the conservation easement’s current ecological value, whichever is greater. For the conservation easement proposed in exchange for the release or amendment, the District shall determine the increase in ecological value that would be attributed to the new conservation easement.

b. To establish monetary values, the District shall obtain an appraisal for the conservation easement to be released or amended in accordance with subsection 40C-1.1101(3), F.A.C. If a conservation easement is proposed in exchange for the release or amendment, the District shall obtain an appraisal for the conservation easement offered in exchange and shall compare the values of the two conservation easements. The cost of measures taken to reduce environmental impacts as required solely by subparagraphs 40C-1.1101(1)(c)1. and 2., F.A.C., shall be considered as part of the monetary consideration for the release or amendment. If mitigation bank credits or participation in a ROMA are offered for the release or amendment of conservation easement, the person requesting the release or amendment must provide the District with a written quote from a mitigation bank for the mitigation credits needed to provide equivalent or greater monetary and ecological value or an analysis from the government entity

implementing the ROMA of what portion of the ROMA shall be attributed to the financial contribution proposed.

(d) Way of Necessity Claim. When the District is subject to, and determines it may not prevail in, a lawsuit for a way of necessity, the District shall apply the same criteria as stated in subparagraphs 40C-1.1101(1)(c)1. through 3., F.A.C., except that the term “public project” shall be replaced with the term “way of necessity.”

(e) Single-Family Lots. The District shall release up to 6,000 square feet from a conservation easement located on a single-family lot in exchange for credits from a mitigation bank or participation in a government-sponsored regional off-site mitigation area (ROMA), located in the same drainage basin as the conservation easement to be released or amended when:

1. The mitigation bank credits or ROMA participation have equivalent or greater monetary and ecological value to the conservation easement being released or amended.

a. The District shall obtain an appraisal of the conservation easement area to be released or amended in accordance with subsection 40C-1.1103(3), F.A.C.

b. The person requesting the release or amendment must provide the District with a written quote from a mitigation bank for the mitigation credits needed to provide equivalent or greater monetary and ecological value or an analysis from the governmental entity implementing the ROMA of what portion of the ROMA shall be attributed to the financial contribution proposed.

c. The District shall perform an ecological assessment of the conservation easement to be released or amended and the mitigation bank credits or ROMA participation being offered in exchange in accordance with the Unified Mitigation Assessment Method (UMAM) in Chapter 62-345, F.A.C. For the conservation easement to be released or amended, the District shall determine the reduction in ecological value that would occur if the request were approved, based on the ecological value accorded to the conservation easement at the time of permit issuance, or the conservation easement’s current ecological value, whichever is greater.

2. The owner of the single-family lot requesting the release or amendment demonstrates that the configuration of the conservation easement on the lot precludes construction of a residence and associated residential improvements consistent with the improvements present within lots in the same subdivision, phase or unit of a residential development. In no case shall the release of a conservation easement result in more than 6,000 square feet of buildable area excluding any setback areas required by local governments.

3. When the District determines by review of the permit file that the conservation easement was intended to prevent direct impacts or secondary impacts associated with docks, piers, boardwalks, bulkheads or mangrove trimming, the District shall amend the easement to allow activities other than docks, piers, boardwalks, bulkheads and mangrove trimming, but shall not release the conservation easement.

4. The District shall only release or amend a conservation easement under this paragraph to individuals or trusts that are the owners of a single family lot and such individuals or trusts may only request such release or amendment for one residential lot.

5. No releases or amendments under this paragraph shall be approved for lands that were subdivided after the conservation easement to be amended or released was recorded.

6. The 6,000 square foot limit in this paragraph (e) shall not apply to the following activities:

a. A residence and associated residential improvements that were constructed on the lot by a previous owner and the current owner requesting the release or amendment, despite the exercise of due diligence, was unaware that the construction by the previous owner breached the terms of the conservation easement; or

b. A residence and associated residential improvements constructed prior to November 10, 2009.

(f) Legal Errors. The District shall agree to release or amend a conservation easement when a release or amendment is necessary to correct legal errors or to conform the conservation easement with the requirements of applicable permit conditions. Examples of such errors include: where the easement encumbers an entire subdivision rather than only those areas required to be encumbered by District permit; the legal description of the recorded conservation easement is legally incorrect; the conservation easement was conveyed by an entity that did not have sufficient legal interest; or the language of the conservation easement is inconsistent with the permit that by condition requires the easement to include certain provisions or specifically allows for certain activities.

(g) General Condition. The District shall not accept a conservation easement over an exchange parcel that must be enhanced or otherwise modified to provide equivalent ecological value to the conservation easement being released or amended.

(2) Notice of Receipt of Request to Release or Amend.

(a) Except as otherwise provided in this subsection, for any release of conservation easement greater than 1,000 square feet or amendment affecting more than 1,000 square feet of the conservation easement, the person requesting the release or amendment must provide the District with the names and addresses of all persons who own property abutting the conservation easement area proposed to be released or amended. In addition, the District shall provide notice to all persons who were “interested persons” regarding the permit that caused the conservation easement to be conveyed to the District. An “interested person” is a person, other than the permit applicant, that requested notice of agency action regarding the specific permit application. The District shall also provide notice to commanders of Department of Defense (DOD) installations located within a five mile radius of the conservation easement proposed to be released or amended. The District shall provide notice by U.S. Mail, or e-mail when an e-mail address is available, and provide a 30 day comment period from the date of the notice before taking action.

(b) Notwithstanding the provisions in paragraph 40C-1.1101(2)(a), F.A.C., notice shall not be given if: (1) the conservation easement was not used as mitigation for permitted impacts due to the permittee not implementing any of the permitted surface water management system and completely abandoning the permit; or (2) the release or amendment will be made pursuant to subparagraphs 40C-1.1101(1)(b)2., 40C-1.1101(1)(b)3., 40C-1.1101(1)(b)4., paragraph 40C-1.1101(1)(e) or 40C-1.1101(1)(f), F.A.C.;

(c) Before releasing any easement in exchange for mitigation bank credits or ROMA participation pursuant to paragraphs 40C-1.1101(1)(c), (d) or (e), F.A.C., the District shall publish a notice of intention to sell in accordance with Section 373.089(3), F.S.

(d) For conservation easements that also served as mitigation for permits issued by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or section 10 of the Rivers and Harbors Act, the District shall provide notice and an opportunity to comment or object to the release or amendment to Jacksonville District, U.S. Army Corps of Engineers. The District shall consider any comments or objections from the U.S. Army Corps of Engineers when making the final decision to release or amend such a conservation easement.

(3) Appraisals.

(a) For the District to proceed with an appraisal, the person requesting a release or amendment shall provide:

1. A legal description by metes and bounds of the property to be encumbered by conservation easement in exchange for a release or amendment to the District that also states the size of the property;

2. A title report that identifies the status of ownership, encumbrances, exceptions, and reservations on the property and;

3. The amount of wetlands and uplands on the property.

(b) If mitigation bank credits or participation in a ROMA are being proposed in exchange for the release or amendment, only an appraisal of the conservation easement area to be released or amended is required.

(c) Except as otherwise provided in this paragraph one appraisal shall be prepared for each parcel to be released or amended and for each parcel offered in exchange for the release or amendment in order to establish monetary value. Two appraisals shall be required when the estimated value of the conservation easement to be released or amended exceeds \$1 million.

(d) All appraisals shall be prepared by appraisers certified under Chapter 475, F.S.

1. Appraisals for Public Projects.

a. The appraisal assignment shall be to provide an opinion of market value of the District conservation easement over the release or amendment area and of the conservation easement offered in exchange. The market value of the conservation easement over the release or amendment area shall be based on the difference between the full fee simple valuation after the release or amendment and the value of the interests remaining with the person seeking the release before the release or amendment. The market value of the conservation easement over the area offered in exchange shall be based on the difference between the value of the full fee simple valuation before the conveyance of a conservation easement and the value of the interest remaining with the grantor of the easement after conveyance of the conservation easement.

2. Single Family Lots.

a. The appraisal assignment shall be to provide an opinion of market value of the District conservation easement over the release or amendment area. The market value of the conservation easement over the release or amendment area shall be based on the difference between the value of the single-family lot after the conservation easement is released or amended and the value of the single-family lot without the conservation easement release or amendment.

(e) All appraisals shall be prepared by an appraiser selected and retained by the District.

(f) The person requesting the release or amendment shall pay the District for the cost of any appraisal and payment for the cost of the appraisal(s) shall be made before the District proceeds with the appraisal(s).

Rulemaking Authority 373.044, 373.113, 373.088 FS. Law Implemented 373.096, 373.089, 373.139(2), 373.088 FS. History—New 1-12-10.

40C-1.135 Delegations of Authority.

(1) The District is delegated authority by the Department to assume certain responsibilities of Chapters 373 and 403, F.S. This delegation is pursuant to authority contained in Sections 373.016, 373.103 and 403.805(1), F.S., and is described in Rule 62-113.200, F.A.C.

(2) The Board of Trustees of the Internal Improvement Trust Fund, pursuant to Rule 18-21.0051, F.A.C., has delegated to the Governing Board the authority to review and take final

agency action on certain applications to use sovereign submerged lands. Rule 18-21.0051, F.A.C., also provides that the Governing Board may further delegate review and decision making authority to District staff. Therefore, the Governing Board delegates this authority to the Executive Director, Assistant Executive Director, Deputy Assistant Executive Director, Director of the Department of Resource Management, the Assistant Department Directors of the Department of Resource Management, and the Directors and Assistant Directors of the permitting offices, when an application to use sovereign submerged lands involves an activity which is reviewed pursuant to the general permit procedures of Chapter 40C-40 or 40C-400, F.A.C.

Rulemaking Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.53, 373.016, 373.103, 373.113, 373.118 FS. History–New 8-1-89, Amended 1-4-96, 11-11-03.

40C-1.601 General.

Unless otherwise provided by law, in the event that a proposed project or activity subject to the permit requirements of Title 40C, F.A.C., lies within a larger project area, a portion of which extends beyond the District’s boundary, said proposed project or activity will be analyzed to determine its overall impact on water resources of the District, including any impact which extends to or from that area of the project lying outside the District’s boundary.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.342, 373.413, 373.4136, 373.416, 373.426 FS. History–New 8-1-89, Amended 10-3-95, 8-4-98.

40C-1.602 Licenses or Permits Required.

Unless expressly exempted by law or District rule, permits or licenses must be obtained from the District prior to commencement of the following activities:

(1) A consumptive use permit, pursuant to Chapter 40C-2, F.A.C., must be obtained prior to certain diversions or withdrawals of water as specified in Chapter 40C-2, F.A.C.

(2) A well construction permit, pursuant to Chapter 40C-3, F.A.C., must be obtained prior to construction, repair or abandonment of certain water wells as specified in Chapter 40C-3, F.A.C.

(3) A water well contractor’s license, pursuant to Chapters 40C-3 and 62-531, F.A.C., in effect on July 1, 1989, must be obtained by contractors engaged in the business of construction, repair, or abandonment of water wells.

(4) An environmental resource individual or general permit, pursuant to Chapters 40C-4, 40C-40, and 40C-400, F.A.C., must be obtained prior to construction, alteration, operation, maintenance, removal, or abandonment of certain stormwater management systems, dams, impoundments, reservoirs, appurtenant works or works, including dredging or filling, as specified in the referenced rules.

(5) An environmental resource conceptual approval permit, pursuant to Chapter 40C-4, F.A.C., may be obtained for proposed surface water management systems as specified in Chapter 40C-4, F.A.C. No construction is authorized by a conceptual approval permit.

(6) A permit, pursuant to Chapter 40C-5, F.A.C., prior to construction of any well involving artificial recharge or intentional introduction of water containing sewage wastes into any underground formation.

(7) An environmental resource permit, pursuant to Chapter 40C-42, F.A.C., must be obtained prior to construction or modification of certain new stormwater management systems or

modification of certain existing stormwater management systems, as specified in Chapter 40C-42, F.A.C.

(8) An environmental resource permit, pursuant to Rule 40C-42.0265, F.A.C., which provides for the discharge of stormwater to wetlands, must be obtained prior to the construction or modification of such a stormwater system as specified in Chapter 40C-42, F.A.C.

(9) An environmental resource permit for the operation and maintenance of certain existing agricultural surface water management systems and for the construction of certain new agricultural surface water management systems pursuant to Chapter 40C-44, F.A.C., must be obtained from the District in order to discharge wastes into waters of the state from such a system.

(10) A mitigation bank permit must be obtained in order to establish a mitigation bank. An application for a mitigation bank permit shall also constitute an application for any permit required under Chapter 40C-4, 40C-40, 40C-41, 40C-42, or 40C-400, F.A.C., to construct, alter, operate, maintain, abandon, or remove any surface water management system proposed as part of the bank.

(11) A mitigation bank conceptual approval permit may be obtained in order to estimate the legal and financial requirements for establishment of a mitigation bank, the information needed for the mitigation bank application, and the potential mitigation credits for the bank. A mitigation bank conceptual approval permit does not authorize construction or establishment of a bank.

Rulemaking Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 373.085, 373.103, 373.106, 373.118, 373.171, 373.219, 373.308, 373.323, 373.413, 373.416, 373.426, 403.812 FS. History—New 1-22-76, Amended 1-15-80, Formerly 16I-1.04, 40C-1.04, 40C-1.041, Amended 8-1-89, 8-11-91, 9-25-91, 10-3-95, 11-11-03.

40C-1.603 Permit Fees.

A fee is required and shall be paid to the District when certain applications or petitions are filed pursuant to District rules or permit programs delegated to the District. Effective October 1, 1990, governmental entities shall be required to submit the fees established except as provided in subsection (17). This fee recovers some of the District's costs of processing applications. The fee schedule is:

- (1) Chapter 40C-2, F.A.C., consumptive use permit
 - (a) Greater than 500 thousand gallons of water per day is requested \$ 1,000
 - (b) The fee for modification of an existing permit shall be based upon any requested increase in the existing water allocation and shall be as established in paragraphs (1)(a) and (2)(b)-(e). The fee for modification of an existing permit not involving a requested increase in the existing allocation shall be as follows:
 - 1. When the existing permit is for 100 thousand gallons of water per day or less, the fee for a modification shall be \$ 100
 - 2. When the existing permit is for greater than 100 thousand gallons of water per day but less than or equal to 500 thousand gallons per day, the fee for a modification shall be \$ 200
 - 3. When the existing permit is for greater than 500 thousand gallons per day, the fee for modification shall be \$ 200
 - (c) No fee will be charged for modification of an existing permit applied for by letter pursuant to Rule 40C-2.331, F.A.C., regardless of withdrawal amount.

(2) Chapter 40C-20, F.A.C., standard general water use permits:	
(a) Withdrawals not exceeding a threshold in Rule 40C-2.041, F.A.C.	\$ 50
(b) Withdrawals within the Delineated Area as set forth in section 7.1.7.7 Applicant's Handbook, Consumptive Uses of Water, from wells with outside casing diameters between five and six inches	\$ 50
(c) Withdrawals requiring an individual consumptive use permit pursuant to paragraph 40C-2.041(1)(f), F.A.C., only	\$ 50
(d) Withdrawals exceeding a threshold in Rule 40C-2.041, F.A.C., involving a request of less than or equal to 100 thousand gallons of water per day	\$ 200
(e) Withdrawals exceeding a threshold in Rule 40C-2.041, F.A.C., involving a request of greater than 100 thousand gallons of water per day but less than or equal to 500 thousand gallons per day	\$ 400
(f) The fee for modification of an existing permit shall be based upon any requested increase in the existing water allocation and shall be as established in paragraphs (1)(a)-(e). The fee for modification of an existing permit not involving a requested increase in the existing allocation shall be as follows:	
1. When the existing permit is for a withdrawal exceeding a threshold in Rule 40C-2.041, F.A.C. involving 100 thousand gallons of water per day or less, the fee for a modification shall be:	\$ 100
2. When the existing permit is for a withdrawal exceeding a threshold in Rule 40C-2.041, F.A.C., involving greater than 100 thousand gallons of water per day but less than or equal to 500 thousand gallons per day, the fee for a modification shall be:	\$ 200
(g) No fee will be charged for modification of an existing permit applied for by letter pursuant to Rule 40C-2.331, F.A.C., regardless of withdrawal amount.	
(3) Chapter 40C-22, F.A.C., noticed general permits:	
(a) Noticed General Permit for Short-term Construction Dewatering	\$ 100
(b) Noticed General Permit for Fire Protection Purposes	\$ 50
(4) Chapter 40C-3, F.A.C., well construction, repair or abandonment permit.	
(a) Public water supply well	\$ 250
(b) All other wells	\$ 120
(c) Abandonment of a well	\$ 0
(d) Variances	\$ 100
(5) Chapter 40C-4, F.A.C., environmental resource permits:	
(a) Individual and conceptual permits	\$ 5,380
(b) Mitigation Bank permits and conceptual approvals	\$11,960
(c) Applications for Modification of individual or conceptual environmental resource permits, or Mitigation Bank permits or conceptual approval permits, where the total land area of the project is not increased	\$ 1,410
(d) Applications for modification of individual or conceptual environmental resource permits, or Mitigation Bank permits or conceptual approval permits, where the total land area of the project is increased	\$ 4,230
(e) Requests for modification by letter of individual or conceptual environmental resource permits, or mitigation bank permits or conceptual approval permits	\$ 270
(f) Chapter 40C-40, F.A.C., standard environmental resource permits:	
1. Systems which have a project area greater than or equal to 40 acres	\$ 1,790
2. Systems which have a project area of less than 40 acres and greater than	

one acre	\$ 1,190
3. Systems which have a project area of less than or equal to one acre	\$ 590
4. Applications qualifying under 40C-40.302(5), F.A.C., for modification of individual or conceptual environmental resource permits, or mitigation bank permits or conceptual approval permits, where the total land area is not increased	\$ 1,100
5. Applications qualifying under Rule 40C-40.302(5), F.A.C., for modification of individual or conceptual environmental resource permits, or mitigation bank permits or conceptual approval permits, where the total land area of a project is increased	\$ 3,300
6. Requests for modification by letter of Chapter 40C-40, F.A.C., standard environmental resource permits, where the total land area of a project is not increased	\$ 160
(g) Chapter 40C-400, F.A.C., noticed general environmental resource permits set forth in Rules 40C-400.417 through 40C-400.500, F.A.C.	\$ 250
(h) Variances associated with an environmental resource permit application	\$ 550
(i) Formal Determinations:	
1. For property less than or equal to 10 acres	\$ 860
2. For property greater than 10 acres but less than or equal to 40 acres	\$ 1,180
3. For property greater than 40 acres but less than or equal to 120 acres	\$ 2,370
4. For property greater than 120 acres plus \$ 310 for each additional 100 acres or portion thereof	\$ 2,370
5. For properties with an existing formal determination that qualify for a lower fee in accordance with subsection 40C-1.1006(7), F.A.C.	\$ 350
(j) For permit applications which involve a combination of fee categories listed in this subsection, the highest fee that applies shall be charged.	
(k) Management and storage of surface waters permits under Chapters 40C-4 and 40C-40, F.A.C., as such rules existed prior to the adoption of rules pursuant to Section 373.414(9), F.S., that are submitted pursuant to the grandfathering provisions of subsections 373.414(11) through (16), F.S.	
1. Individual and conceptual permits	\$ 3,530
2. General permits	\$ 980
(l) Permit applications and formal determinations which require wetland delineations pursuant to Section 373.421(7), F.S., will be charged a supplemental application fee of seven hundred dollars (\$700), in addition to the application fees above.	
(6) Chapter 40C-42, F.A.C., environmental resource stormwater permits and conceptual approval environmental resource stormwater permits.	
(a) Stormwater facility serving a project with a total land area less than or equal to one acre	\$ 280
(b) Stormwater facility serving a project with a total land area greater than one acre	\$ 490
Permit applications under Chapter 40C-42, F.A.C., as such rule existed prior to the effective date of the rules adopted pursuant to Section 373.414(9), F.S., that are submitted pursuant to the grandfathering provisions of subsections 373.414(12) through (16), F.S.	
1. Stormwater facility serving a project with a total land area less than or equal to one acre	\$ 220
2. Stormwater facility serving a project with a total land area greater than one acre	\$ 440
(c) Requests for modification by letter of Chapter 40C-42, F.A.C., Permits	\$ 110

(7) Chapter 40C-5, F.A.C., artificial recharge injection well permits	\$ 5,000
(8) Chapters 62-4 and 62-312, F.A.C., wetland resource management (dredge and fill) permits issued pursuant to the grandfathering provisions of subsections 373.414(11) through (16), F.S.	
(a) General permits	\$ 150
(b) Short form permits:	
1. Involving the construction of new docking or boardwalk facilities, pursuant to Rule 62-312.070, F.A.C., that provide:	
a. 0-2 new boat slips	\$ 460
b. 3-9 new boat slips	\$ 760
2. Involving dredging and filling activities that affect 10 acres or less of jurisdictional area, pursuant to subsection 62-312.070(2), F.A.C.:	
a. Up to and including five years duration	\$ 760
b. From six years up to and including 10 years duration	\$ 4,600
(c) Standard form permits:	
1. Up to and including five years duration	\$ 6,130
2. For six years duration	\$ 9,200
3. For seven years duration	\$10,740
4. For eight years duration	\$12,270
5. For nine years duration	\$13,810
6. For ten years duration	\$15,340
7. For 11 years duration	\$16,880
8. For 12 years duration	\$18,410
9. For 13 years duration	\$19,940
10. For 14 years duration	\$21,480
11. For 15 years duration	\$23,010
12. For 16 years duration	\$24,550
13. For 17 years duration	\$26,080
14. For 18 years duration	\$27,620
15. For 19 years duration	\$29,150
16. For 20 years duration	\$30,690
17. For 21 years duration	\$32,220
18. For 22 years duration	\$33,760
19. For 23 years duration	\$35,290
20. For 24 years duration	\$36,830
21. For 25 years duration	\$38,360
(d) For permit applications which involve a combination of fee categories listed above, the highest fee that applies to the appropriate standard form or short form project, pursuant to Rule 62-312.070, F.A.C., shall be charged.	
(e) Variances from permitting standards, permit conditions, or water quality standards associated with a wetland resource permit application:	
1. Variances from prohibition of subsection 62-312.080(7), F.A.C.	\$ 550
(f) In determining a wetland resource management permit fee, the permit's duration term shall be reduced by the time period (in yearly increments) during which no dredging or filling activity occurs or no reclamation, restoration, or mitigation occurs and only minor monitoring and maintenance activities are required. The fee for the full term shall be submitted with the	

application. After the District determines the period of time that the term of the permit can be reduced, the excess fee shall be returned.

(g) A single additional fee of \$760 shall be required for projects in which monitoring and evaluation to determine success of the mitigation will be required beyond the period of time to which the permit fee will ordinarily apply. If it is determined at the time of the permit application that monitoring and evaluation to determine the success of the mitigation will be required beyond the time period to which the permit fee will ordinarily apply, then this single additional fee will be due at that time. If it is determined after the time of permit application that monitoring and evaluation to determine the success of the mitigation will be required beyond the time period to which the permit fee will ordinarily apply, then this single additional fee shall be due when it is determined that this monitoring and evaluation is required.

(h) Minor modifications of permits that do not require substantial technical evaluation by the District, do not require a new site inspection by the District, and will not lead to substantially different environmental impacts or will lessen the impacts of the original permit:

1. That consist of transfers of permits or time extensions \$ 70
2. Involving minor technical changes when the existing permit fee is less than \$460.00. \$ 70
3. Involving minor technical changes when the existing permit fee is more than or equal to \$460.00. \$ 380

(9) Chapter 40C-44, F.A.C., environmental resource agricultural system permits:

- (a) Standard General Permits for agricultural operations less than 40 acres \$ 420
- (b) Standard General Permits for agricultural operations greater than 40 acres \$ 1,050
- (c) Individual Permits \$ 2,820

(d) Permit applications under Chapter 40C-44, F.A.C., as such rule existed prior to the effective date of the rules adopted pursuant to Section 373.414(9), F.S., that are submitted pursuant to the grandfathering provisions of subsections 373.414(12) through (16), F.S.

1. General Permits for agricultural operations less that 40 acres \$ 470
2. General Permits for agricultural operations greater than 40 acres \$ 940
3. Individual Permits \$ 2,840

(10) Modifications of Permits. Unless the fee for modification of a permit is specifically provided above, the fee required with an application for modification shall be that which is established for the applicable type of permit.

(11) Permit applications under Chapters 62-4, 62-312, 40C-4, 40C-40, 40C-42, or 40C-44, F.A.C., submitted prior to the effective date of the rules adopted pursuant to Section 373.414(9), F.S., shall be required to submit the permit application fees in existence prior to 4-12-95.

(12) Application fees for authorizations on sovereign submerged lands under Chapter 253 and 258, F.S., are provided in Chapter 18-21, F.A.C.

(13) For individual, conceptual, and standard environmental resource permit, environmental resource stormwater permit, and mitigation bank permit and conceptual approval permit applications that fail to provide five copies of the application package (which package includes the signed application form, construction plan drawings, and other supporting information), for each missing application package the application fee shall be increased as follows:

- (a) Chapter 40C-4, F.A.C., individual and conceptual environmental resource permits, and mitigation bank permits and conceptual approval permits \$220

- (b) Chapter 40C-40, F.A.C., standard environmental resource permits \$110
- (c) Chapter 40C-42, F.A.C., permits \$110

However, this additional fee shall not apply when the application package is received electronically via the District' E-Permitting website at www.sjrwmd.com

(14) Informal wetland boundary determinations under Part IV of Chapter 373, F.S., for property less than or equal to 1 acre \$100

(15) Verification that an activity is exempt from regulation under Part IV of Chapter 373, F.S. or Section 403.813, F.S. \$100

(16) The District shall use the Consumer Price Index, for All Urban Consumers (CPI-U), all items, compiled by the United States Department of Labor for revising fees under Part IV of Chapter 373, F.S., pursuant to Section 373.109, F.S., and subparagraph 62-113.200(12)(a)8 and paragraph 62-4.050(4)(z), F.A.C.

(17) Pursuant to Section 218.075, F.S., the District shall, for each fiscal year beginning October 1st and ending September 30th, reduce all permit application fees to \$100, or, if a permit application fee is less than \$100, by 50 percent, for any county, municipality, or third party under contract with a county or municipality, to apply for a permit on the county or municipality's behalf, which qualifies under this subsection. A county, municipality, or third party as described above, may apply to reduce the permit application fees by submitting form 40C-1.603(13) entitled "Request to the St. Johns River Water Management District to Reduce Permit Application fees," effective 11-11-03, which is hereby incorporated by reference and which can be obtained from St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, for each fiscal year certifying:

(a) That the county had a population of 50,000 or less on April 1, 1994 and that the County's population has not yet exceeded 75,000, that the municipality has a population of 25,000 or less, or that the county or municipality is not included within a metropolitan statistical area; and

(b) All projects for which the fee reduction or waiver is sought will serve a public purpose; and

(c) The permit application fee cost is a fiscal hardship due to one of the following:

1. Per capita taxable value is less than the statewide average for the current fiscal year.
2. Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year.

3. Any condition specified in Section 218.503, F.S., that determines a state or financial emergency.

4. Ad valorem operating millage rate for the current fiscal year is greater than eight mills.

5. A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

Rulemaking Authority: 373.044, 373.109, 373.113, 373.421(2) FS. Law Implemented: 218.075, 373.109, 373.421(2)FS. History--New 10-1-87, Amended 6-1-88, 10-17-88, Formerly 40C-1.202, Amended 8-1-89, 10-19-89, 8-19-90, 7-21-91, 7-23-91, 8-11-91, 9-25-91, 11-12-91, 10-20-92, 11-30-92, 1-6-93, 12-6-93, 1-23-94, 4-12-95, 1-4-96, 4-25-96, 10-2-96, 10-11-01, 4-10-02, 11-11-03, 2-1-05, 2-16-10.

40C-1.604 Conceptual Approval Permit Procedures.

(1) Projects for which an approval in concept of the plans and designs is sought,

including those projects for which an Application for Development Approval has been made pursuant to Part I of Chapter 380, F.S., are eligible for a conceptual approval permit and an application may be made to the District for a conceptual approval environmental resource permit related to:

(a) A stormwater management system as regulated by Chapter 40C-42, F.A.C., or

(b) A surface water management system as regulated by Chapter 40C-4, 40C-40, or 40C-41, F.A.C.

(2) Issuance of a conceptual approval permit pursuant to this section shall not relieve the applicant of any requirements for obtaining a permit to construct, alter, operate, maintain, remove or abandon a stormwater management system, or other surface water management system, nor shall the conceptual approval permit applicant be relieved of the District's information requirements or the need to meet the standards for issuance of permits pursuant to Chapter 40C-4, 40C-40, 40C-41, or 40C-42, F.A.C.

(3)(a) Issuance of approval pursuant to this section will create a rebuttable presumption that the applicant is entitled to receive a construction or operation permit for a stormwater discharge facility, management and storage of surface water or work of the district, to the extent that the project for which an applicant seeks such a permit is in accordance with the conceptual approval and with the District's standards and criteria for issuing a construction or operation permit.

(b) The Board's determination that the conceptual plans are consistent with District rules provides the conceptual approval permit holder with assurance that the concepts upon which the engineering and environmental designs are based can provide for systems which meet District rule criteria.

(c) An application for a conceptual approval permit for a stormwater discharge facility will be reviewed pursuant to the standards and criteria established in Chapter 40C-42, F.A.C.

(d) An application for a conceptual approval permit for a surface water management system will be reviewed pursuant to the standards and criteria established in Chapters 40C-4 and 40C-41, F.A.C.

(4) Reasonable conditions may be placed upon a conceptual approval permit.

(5) A conceptual approval permit shall be valid for up to the period specified in the permit from the date of issuance, provided that construction of the initial phase is permitted, and construction undertaken, within two years of the issuance of the conceptual approval permit. However, if the project approved by the conceptual approval permit is undergoing development-of-regional-impact review pursuant to Section 380.06, F.S., and an administrative appeal of that review has been filed, the permittee may toll the two year time period for permitting and undertaking construction by notifying the District, in writing, that the development-of-regional-impact review has been appealed within two years of issuance of the conceptual permit, and notifying the District, in writing, of the final action resolving such administrative appeal. If proper notice is given as indicated above, the two year time period for permitting and undertaking construction shall be tolled from the date the administrative appeal of the development-of-regional-impact review is filed, to the date of final action resolving such administrative appeal.

Rulemaking Authority 373.044, 373.113, 373.171, 380.06(9) FS. Law Implemented 380.06(9) FS. History—New 7-6-86, Formerly 40C-1.132, Amended 8-1-89, 9-25-91, 9-8-92, 10-3-95.

40C-1.607 Issuance of a License or Permit.

Where a license or permit requires Governing Board action, issuance of a license or permit is deemed to occur upon the approval by the Board.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.4136, 373.416, 373.426 FS. History—New 8-1-89, Amended 8-4-98.

40C-1.608 Denial of a License or Permit.

(1) The District shall set forth in writing the reasons for denial of the license or permit application. For applications for environmental resource permits, the District will also explain, in general terms, what changes in the permit application, if any, would address such reasons for denial. Such changes shall not be limited to those modifications as described in subsection 12.2.1 of the Applicant's Handbook: Management and Storage of Surface Waters, adopted by reference in Rule 40C-4.091, F.A.C.

(2) When the license or permit is considered by the Board the applicant and other interested persons may appear before the Board to present informal argument for or against the intended District action. Such appearance before the Board shall not provide a basis for appealing the decision of the Board pursuant to Chapter 120, F.S.

(3) The Board may approve, reject or modify the intended District action. The Board's action shall constitute final agency action, except for those instances when a valid petition for an administrative hearing has been timely filed. In such instances, the Board shall defer final consideration of the matter pending completion of the administrative hearing and the submittal of a recommended order, if required, and exceptions thereto.

(4) Applicants and other interested persons should be prepared to explain their positions regarding the license or permit application when it is considered by the Board for final action. If the Board's final action differs substantially from the intended District action, the District shall mail a notice of final action to all persons who received a notice of intended District action. Substantially affected persons who did not request a Section 120.57, F.S., hearing based on the notice of proposed District action shall have the right to request such a hearing within 14 days of receipt of the notice of final action, otherwise such right is deemed waived. Such request for hearing shall be in accordance with subsection (4) above, and may only address those aspects of the final action which substantially deviate from the intended action.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.219, 373.308, 373.413, 373.4136, 373.416, 373.426 FS. History—New 8-1-89, Amended 10-3-95, 8-4-98.

40C-1.610 License or Permit Renewal.

(1) Holders of renewable licenses or permits shall make timely and sufficient application for renewal so as to avoid expiration during the renewal process. When timely and sufficient application is made, the existing license or permit shall not expire until final agency action, or if the permit is denied or the terms limited, until the last day for seeking review of the District order or a later date fixed by order of the reviewing court.

(2) Applications for extension of time limits or time frames of permits or licenses issued by the District may be applied for and will be treated as modifications of the permit or license.

(3) Application for a license or permit renewal is timely only if actually filed at the District prior to expiration of the existing license or permit. Mailing the application does not constitute filing.

Rulemaking Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.219, 373.239, 373.323, 373.413 FS. History—New 1-15-80, Formerly 16I-1.06, Amended 5-15-80,

Formerly 40C-1.06, 40C-1.061, Amended 8-1-89.

40C-1.612 Transfer of Ownership or Permit.

(1) Transfer of Permitted Facility. Within 30 days of any sale, conveyance, or other transfer of a facility, system, or well permitted by the District, the existing permittee must notify the District, in writing, of such transfer, giving the name and address of the transferee and providing a copy of the instrument effectuating the transfer.

(2) Transfer of Interest in Real Property. Within 30 days of any transfer of ownership or control of the real property at which any permitted facility, system, consumptive use, or activity is located or authorized, the permittee must notify the District, in writing, of the transfer, giving the name and address of the new owner or person in control and providing a copy of the instrument effectuating the transfer.

(3) Transfer of Permit. To transfer a permit, the permittee must provide the information required in subsections (1) and (2), together with a written statement from the proposed transferee that it will bound by all terms and conditions of the permit unless the transfer is associated with the conversion of the construction permit to its operation phase and the maintenance entity exists as approved by the permit. A request for conversion of a permit from a construction permit to an operation phase permit must comply with Rule 40C-42.028, F.A.C. Additionally, where applicable, the transferee must demonstrate that it is capable of constructing, operating and maintaining the permitted facility, system, consumptive use, well or activity. Once the required information has been provided, the District shall transfer the permit to the transferee in accordance with subsection (6).

(4) The permittee is encouraged to request a permit transfer prior to the sale or legal transfer of the real property at which a permitted facility, system, consumptive use, or activity is located or authorized. However, the transfer shall not be effective prior to the sale or legal transfer.

(5) Until this transfer has occurred, the permittee and any other person constructing, operating, or maintaining the permitted facility shall be liable for compliance with the terms of the permit. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations occurring prior to the sale or legal transfer of the facility.

(6) Timeframes for Transfers.

(a) Except for those transfers associated with the conversion of a construction permit to its operation phase, the District shall transfer a permit within forty-five (45) days of receiving a complete request for transfer pursuant to subsections (1) through (3) above. However, the District may toll the time for the transfer by notifying both the permittee and the transferee, within thirty (30) days of receipt of the request, that additional information is required to adequately review the transfer request pursuant to subsections (1) through (3) above. This time will resume upon receipt of the additional information. If the District fails to transfer the permit within the forty-five (45) days, the transfer shall be deemed approved.

(b) Within ninety (90) days of receiving a complete request to convert a construction permit to its operation phase and to transfer the permit to the operation and maintenance entity, pursuant to subsection (3) above, the District shall convert the permit from its construction phase to its operation phase and transfer the permit to its operation and maintenance entity. However, the District may toll the time by notifying the permittee that additional information is required to adequately review the request, pursuant to subsections (1) through (3) above, or that deficiencies

in the permitted facility, system, consumptive use, well or activity, must be corrected prior to conversion and transfer. Within thirty (30) days of receipt of the additional information and of verification of the corrected deficiencies, the District will convert the construction permit to its operation phase and transfer the permit to the operation and maintenance entity. If the District fails to convert or transfer the permit within the thirty (30) days, the conversion and transfer shall be deemed approved.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.171, 373.309, 373.416, 373.426, 373.429, 373.436 FS. History—New 8-1-89, Amended 10-19-89, 7-20-95, 11-6-95.

40C-1.701 General.

This part establishes procedures for the competitive selection of firms to provide professional architectural, engineering, landscape architectural, or land surveying services and the negotiation of contracts for such services. The definitions contained in Section 287.055, F.S., have the same meaning in this part.

Rulemaking Authority 287.055, 373.113 FS. Law Implemented 287.055, 120.53 FS. History—New 8-1-89.

40C-1.702 Public Notice.

The District shall give public notice of each instance in which professional services are being sought and provide a general description of the project and the method for interested firms to apply for consideration. The notice shall appear in newspapers of general circulation in the appropriate areas.

Rulemaking Authority 287.055, 373.113 FS. Law Implemented 287.055 FS. History—New 8-1-89, Amended 9-25-90, 6-17-91.

40C-1.703 Letter of Interest.

Pursuant to the public notice, a firm desiring to provide professional services for a project shall timely submit a letter of interest containing evidence of current professional status, capabilities, adequacy of personnel, past record and related experience, list of subconsultants, and other information required by the notice necessary for District evaluation under subsection 287.055(4), F.S.

Rulemaking Authority 287.055, 373.113 FS. Law Implemented 287.055 FS. History—New 8-1-89.

40C-1.704 Competitive Selection.

(1) District staff will evaluate each letter of interest submitted regarding qualifications and performance ability. In those instances in which further clarification of qualifications or additional information is needed, the District shall require presentation by no less than three firms regarding their qualifications, approach to the project and ability to furnish the required service.

(2) District staff shall select and list not less than three firms, in order of preference, deemed to be the most highly qualified to perform the required professional service after consideration of the factors set forth in subsection 287.055(4), F.S., and such other necessary factors.

(3) District staff will then recommend to the Board that competitive negotiations be instituted with the firms selected. However, when the fee for professional services is no more

than \$100,000, District staff will recommend to the Executive Director or designee that competitive negotiations be instituted with the firms selected, and the Executive Director or designee is authorized to finalize the list of firms in order of preference. For the purpose of Rules 40C-1.704 and 40C-1.705, F.A.C., the term “designee” means:

(a) The Assistant Executive Director, or

(b) In the absence of the Executive Director and the Assistant Executive Director, the District staff member designated by the Executive Director or the Assistant Executive Director to serve as acting Executive Director.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.083(1), (5) FS. History—New 8-1-89, Amended 10-19-89, 3-14-90, 2-13-01.

40C-1.705 Competitive Negotiations.

(1) After competitive negotiations have been authorized, the District staff shall begin contract negotiations for professional services with the designated firms in order of rank for fair, competitive and reasonable compensation.

(2) Should negotiations with the firm determined to be the most qualified prove unsuccessful, negotiations with that firm shall cease and negotiations shall begin with the next most qualified firm on the list. Negotiations shall continue in accordance with this section until an agreement is reached.

(3) If a satisfactory agreement is not reached with any of the initial firms, additional responding firms shall be ranked and listed in the order of their competence and qualifications. Negotiations shall then continue beginning with the first named firm on the second list until an agreement is reached. After successful negotiations, a recommendation shall be made that the contract be awarded. The Executive Director or designee is authorized to award the contract.

(4) If, with the concurrence of the Board Chair, the Executive Director, or designee, determines in writing that an immediate danger to the public health, safety, welfare or other substantial loss to the public requires emergency action, the District staff may proceed with the procurement of professional services necessitated by the emergency without competition.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.083(1), (5) FS. History—New 8-1-89, Amended 10-19-89, 6-17-91, 2-13-01.

40C-1.706 Reservation of Rights.

The District reserves the right to reject all bids, proposals or other offers to furnish professional or contractual services. The District shall indicate this reservation in all solicitations for contractual or professional services.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53 FS. History—New 8-1-89.

40C-1.708 Protest of Action.

Protest under this subpart shall be subject to Chapter 28-110, F.A.C.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53 FS. History—New 9-25-90, Amended 11-11-03.

40C-1.709 General.

Pursuant to Section 287.055(10), F.S., the following procedures shall be followed in selecting firms when design-build services are sought for public construction projects. Definitions contained in Section 287.055(2), F.S., have the same meaning in this part except “project”.

“Project” shall mean a fixed capital outlay project described in the public notice including individual facilities; grouping of facilities; and rehabilitation and renovation activities.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 120.53 FS. History—New 9-25-90, Amended 6-17-91.

40C-1.711 Selection of the Design-Criteria Professional.

The design criteria professional shall be selected and contracted with pursuant to Section 287.055, F.S., and Part VII of this chapter or shall be an employee of the District. The design criteria professional will not be eligible to render services under design-build contracts executed pursuant to the design criteria package. The design criteria professional may be required to evaluate qualifications and proposals submitted by design-build firms, review detailed working drawings for the project, and evaluate project construction for compliance with the design criteria package.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055 FS. History—New 9-25-90.

40C-1.712 Design Criteria Package.

The design criteria professional shall prepare and seal a design criteria package which shall include, but not be limited to, the following: survey information and the legal description of the site; interior space requirements; material quality standards; schematic layouts and conceptual design criteria; cost or budget estimates; design and construction schedules; site development requirements; utility provisions for water, sewer, power and telephone; stormwater retention and disposal; and parking requirements, if applicable. Due to the specific requirements of a particular project, additional criteria shall be required in the design criteria package. The purpose of the design criteria package is to provide sufficient information upon which design-build firms may prepare proposals or upon which negotiations may be based. The firm to whom the design-build contract is awarded will be responsible for creation of the project design based on the criteria in the design criteria package.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055 FS. History—New 9-25-90, Amended 6-17-91.

40C-1.713 Minimum Qualifications for Firms Providing Design-Build Services.

Firms seeking to provide design-build services shall be

(1) Certified under Section 489.119, F.S., to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; and

(2) Certified under Section 471.023, F.S., to practice or to offer to practice engineering; or certified under Section 481.219, F.S., to practice or to offer to practice architecture; or certified under Section 481.319, F.S., to practice or to offer to practice landscape architecture.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055 FS. History—New 9-25-90.

40C-1.714 Request for Qualifications.

(1) The District shall give public notice of each instance in which professional services are being sought for a design-build project, providing a general description of the project and requesting qualifications from design-build firms. The notice shall appear in newspapers of

general circulation in appropriate areas.

(2) A design-build firm desiring to provide design-build services for a project shall timely submit a letter of interest to the District, which shall include the following qualifications weighted for evaluation: evidence of current professional status; availability; location; adequacy of personnel; past contractual record and related experience; recent, current and projected workloads; volume and quality of work previously awarded to the firm by the District; willingness to meet time and budget requirements; and whether the firm is a certified minority business as defined by the Florida Small and Minority Business Act of 1985. Interested firms shall be notified of the weighted evaluation criteria for each project. Along with its qualifications, the design-build firm shall file a sworn statement pursuant to Section 287.133, F.S.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055 FS. History—New 9-25-90, Amended 6-17-91.

40C-1.715 Qualification of Firms.

District staff shall determine the relative ability of each interested firm to perform the services required for the project based on the factors in subsection 40C-1.714(2), F.A.C. After reviewing the letters of interest, District staff shall select no less than three firms deemed to be most highly qualified to provide the required design-build services and request those firms to provide proposals for the project.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055 FS. History—New 9-25-90, Amended 6-17-91.

40C-1.716 Proposal Selection.

(1) Only firms selected as most qualified will be notified by mail by District staff to submit sealed proposals. Firms not selected will be notified by mail.

(2) Pursuant to the request for proposals, each selected firm shall timely submit its sealed proposal to the District for evaluation. The proposal shall be based on the criteria in the request for proposal and design-build package.

(3) District staff shall evaluate each firm's proposal based on price, and technical and design aspects of the project, weighted for the project. The evaluation process shall be based on criteria and procedures established prior to the solicitation of competitive proposals.

(4) Where further clarification of proposals or additional information is needed, District staff shall require informational presentations by the selected firms.

(5) District staff shall designate and rank not less than three firms, in order of preference, whose proposals District staff deems to be most advantageous to the District, having taken into consideration the evaluation criteria and the proposer's responsiveness to the request for proposals. A notice of intended action shall be provided by mail to the selected firms.

(6) District staff will then recommend to the Board that the Board approve a ranking of designated firms and that competitive negotiations be instituted. However, when the fee for design-build services is no more than \$100,000, District staff will recommend to the Executive Director or designee that competitive negotiations be instituted with the firms selected. Thereafter, the Executive Director or designee is authorized to approve a ranking of designated firms and to authorize the initiation of negotiations. For the purpose of Rules 40C-1.716 through 40C-1.719, F.A.C., the term "designee" means:

(a) The Assistant Executive Director, or

(b) In the absence of the Executive Director and the Assistant Executive Director, the District staff member designated by the Executive Director or the Assistant Executive Director to serve as acting Executive Director.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1), (5) FS. History—New 9-25-90, Amended 6-17-91, 2-13-01.

40C-1.717 Competitive Negotiations for Design-Build Services.

(1) The District staff shall begin contract negotiations for design-build services with the designated firms in order of rank for fair, competitive and reasonable compensation.

(2) Should negotiations with the most highly-ranked firm prove unsuccessful, as determined by the Executive Director or designee, negotiations with that firm shall cease and negotiations shall begin with the next most highly-ranked firm. Negotiations shall continue in accordance with this section until an agreement is reached. The Executive Director or designee is authorized to award the contract.

(3) If a satisfactory agreement is not reached with any of the designated firms, the Board will direct the District staff to either

(a) Designate and rank additional responding firms, in order of preference, for competitive negotiations pursuant to subsections (1) and (2) above; or

(b) Republish the request for qualifications, with any appropriate modifications.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1), (5) FS. History—New 9-25-90, Amended 6-17-91, 2-13-01.

40C-1.718 Rejection of Proposals.

(1) The Executive Director or designee reserves the right to reject any and all proposals, provided such action is done in good faith, and is not arbitrary and capricious.

(2) If the Executive Director or designee finds it necessary to reject all the proposals, a written statement to this effect shall be placed in the proposal file and the proposers shall be notified. The District then may republish the request for qualifications, with any appropriate modifications at the direction of the Executive Director or designee. Any interested firm will have the opportunity to submit or resubmit its qualifications to the District for consideration.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1), (5) FS. History—New 9-25-90, Amended 6-17-91, 2-13-01.

40C-1.719 Emergency Procurement.

If the Executive Director or designee determines in writing that an immediate danger to the public health, safety, welfare or other substantial loss to the public requires emergency action, the District staff may proceed with the procurement of the design-build services without competition. The Executive Director or designee shall promptly notify the Board Chair or Vice-Chair of the emergency action.

Rulemaking Authority 287.055, 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1), (5) FS. History—New 9-25-90, Amended 6-17-91, 2-13-01.

40C-1.720 Reuse of Plans.

When the District reuses existing design criteria packages and resulting plans from a prior project, the requirements of this subpart shall not be applicable.

Rulemaking Authority 287.055, 373.113 FS. Law Implemented 287.055 FS. History—New 9-25-

90, Amended 6-17-91.

40C-1.721 Protest of Action.

Protest under this subpart shall be subject to Chapter 28-110, F.A.C.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53 FS. History—New 9-25-90, Amended 11-11-03.