

WEST VILLAGES IMPROVEMENT DISTRICT
C/O Special District Services, Inc.
19503 S. West Villages Parkway #A3
Venice, Florida 34293

May 19, 2022

Via U.S. Mail and Electronic Mail

Gran Paradiso Property Owners Association, Inc.
Attn: Steve Glunt President
20125 Galleria Boulevard
Venice, Florida 34293
sgluntgpboard@gmail.com

RE: West Villages Improvement District Irrigation Utility Program

Dear Mr. Glunt,

Staff of the West Villages Improvement District (the “**District**”) has received several inquiries from members of the Board of Directors (the “**BOD**”) of the Gran Paradiso Property Owners Association, Inc. (the “**Association**”) as to the irrigation program within the District. The District has accordingly prepared this letter in an effort to educate the BOD on the District’s provision of irrigation water within the Gran Paradiso community.

When the master developer acquired the majority of the lands within the Wellen Park development several years ago, it also legally acquired the original developer’s rights to the Water Use Permit (the “**Permit**”) issued by the Southwest Florida Water Management District (“**SWFWMD**”). The geographical scope of the Permit includes all lands within the District, with the exception of the Islandwalk development which was separately permitted (hereinafter, the lands subject to the Permit shall be referred to as “**Unit No. 6**”). The Permit allocates irrigation water to the lands within Unit No. 6, which is supplied from three sources: i) surface water (i.e. irrigation lakes); ii) reclaimed water (i.e. supplied by the City of North Port, Sarasota County, and/or Englewood Water District); and iii) groundwater (i.e. wells).¹ The SWFWMD permitholder(s) is the only entity(ies) that is legally allowed to develop or utilize water resources within the lands within the scope of such Permit.² The Permit is currently jointly held by the District and The Ranch Land Operations, LLLP, an affiliate of the master developer.

¹ The Permit requires that the surface water and reclaimed water are to be used preferentially and the groundwater is to be used when those sources are not adequate to meet the irrigation demands established by the Permit.

² Section 12 of the *Amended and Restated Declaration of Covenants and Restrictions for Gran Paradiso*, dated October 29, 2013 (the “**Declaration**”), additionally provides that the conveyance of a lot to a homeowner does not include the right to develop or utilize the ground or surface water resources within such lot. Section 5.12 and 12 of

The lands within Gran Paradiso, including specifically the groundwater irrigation wells located within your development (“**Wells**”),³ were included within the scope of the Permit at the time of assignment to the master developer and remain subject to the Permit. As a result, although the Association owns the fee simple title to the real property upon which the Wells are located, it does not own or own the rights to the Wells themselves. Instead, these rights are held by the holders of the Permit.

The master developer holds a perpetual easement over the lands where the Wells are located for access and for the installation, maintenance, repair and general use and operation of the Wells in accordance with the Permit (hereinafter, the “**Easement**”).⁴ The Easement provides that the property owner shall ensure quiet enjoyment of the easement property, meaning that it will not take or allow any actions that disrupts the Grantee’s use of the property for the purposes stated in the Easement (i.e. relative to the Grantee’s operation of the Wells). The Easement is recorded against the land and thus is enforceable against the Association as the current owner of such lands.

Overall irrigation water allocations for both the lands within Gran Paradiso as well as Unit No. 6 are ultimately governed by the SWFWMD Permit. A project’s irrigation allocation is determined by SWFWMD’s AGMOD modeling software based on the amount of irrigable acres located within a specific project boundary, as well as property use type, irrigation type, and soil type. The well capacity or quantities ascribed to a well(s) accordingly do not dictate the irrigation allocation.

The reason for this, in part, is that the irrigation infrastructure within Unit No. 6 is a considered a system of improvements where the improvements generally serve the entirety of the lands within Unit No. 6 instead of just the development in which they are physically located.⁵

the Declaration further require homeowners to connect the irrigation water lines on their lot to the lines of the utility provider(s) providing service to Gran Paradiso (i.e. the District).

³ Note that six (6) wells within Gran Paradiso have been permitted, but only two are physically operational. It is understood by SWFWMD that it will take time to bring the District’s entire wellfield, including the portion located within Gran Paradiso, into production. However, for the reasons discussed in this letter, this fact has no effect on irrigation allocations for either the Gran Paradiso development or for the lands within Unit No. 6.

⁴ Note that District staff in late 2021 and early 2022, at the request of Supervisor Victor Dobrin, did an audit of all common area property within Gran Paradiso to confirm that all property intended to be turned over to the District was in fact conveyed to the District. This audit identified a number of pond tracts, as well as the tracts upon which the Wells are located, that had not yet been turned over to the District. The District prepared and provided a form of deed for these properties and presented the draft document to representatives of the BOD which to date has declined to act on approving, executing, and recording such deed.

⁵ Claims have been made by certain of the members of the BOD that all of the irrigation infrastructure within Gran Paradiso was paid for using proceeds of bonds secured by the lands within Gran Paradiso (hereinafter, the “**Unit No. 3 Bonds**”), which is purported to be impermissible since Unit No. 6 was created by the District to oversee the District’s irrigation operations. While the District does not believe that all master irrigation improvements in Gran Paradiso were funded with proceeds of the Unit No. 3 Bonds, there is nothing impermissible about the payment of irrigation infrastructure construction/installation costs in this manner. Conversely, it is routine for either the District or the developer of a project to install the initial irrigation installation physically located within their development.

This is described in the Permit as “wellfield flexibility.” For example, wells and infrastructure outside of Gran Paradiso can provide irrigation water to your development and conversely the Wells and other infrastructure located in Gran Paradiso can provide (and have historically provided) provide irrigation water to other properties within Unit No. 6.

By way of example, the District presently moves irrigation water generated from the Wells to PIL No. 1 to mix with the water located therein in order to reduce the salinity of the groundwater produced from such Wells to make it suitable for irrigation purposes. If we did not mix the groundwater in this manner, the groundwater produced straight from the Wells would burn and destroy the turf and landscape improvements. It is not possible for PIL No. 3, which is located within Gran Paradiso, to be utilized for this mixing process as it is too small of a lake. As a result, Gran Paradiso is relying on irrigation facilities outside of its geographical boundary to facilitate the provision of irrigation water to the lands within its boundary, just like other properties within Unit No. 6, but outside of Gran Paradiso, rely on facilities located within Gran Paradiso.

In order to facilitate the implementation of the full-service residential irrigation program within Unit No. 6,⁶ in 2018 the District and the master developer determined that it was in the best interest of the District, its residents, and landowners for the District to oversee the irrigation program for the lands within Unit No. 6 and accordingly entered into that certain *Water Supply Agreement* providing in part: i) that the District is to be the exclusive provider of irrigation water to the users within Unit No. 6,⁷ which includes the Development; and ii) the fees to be charged to the District to pay for the availability of groundwater quantities via the use of master developer-owned wells.

Pursuant to its enabling legislation, the District is authorized to prescribe, fix, establish, and collect rates, fees and other charges after a public hearing thereon. In conjunction with entering into the Water Supply Agreement referenced above, The District procured an irrigation rate study and, after public hearing, adopted Resolution 2018-18⁸ establishing several irrigation-related fees/rates including: i) a variable operating/usage rate; ii) a fixed capital rate; and iii) a well availability rate based on the District’s requirement to remit such rates per the Water Supply

The District then collects a capital recovery fee, as discussed in more detail herein, from all users of irrigation water within Unit No. 6 for the repair and/or replacement of existing irrigation infrastructure.

⁶ Prior to 2018, the majority of the lands within to-be-formed Unit No. 6 were permitted by SWFWMD for agricultural use only (including the Wells), with the only source of irrigation water to Gran Paradiso being provided by Englewood Water District.

⁷ Note that the lands within Unit No. 6 includes both i) lands subject to a restrictive covenant imposed by the master developer, and ii) additional lands within the District that had commenced residential development prior to 2018, including Gran Paradiso. For the reasons stated herein, the lack of a “restrictive covenant” imposed by the master developer over the lands in Gran Paradiso (or any other residential community developed prior to 2018) does not negate those communities’ obligation to acquire irrigation water from the District as the irrigation utility provider and to participate in the provision of fees and charges imposed by the District relative to its operation of such utility.

⁸ Resolution 2018-18 was subsequently amended by Resolution 2021-15.

Agreement⁹ (collectively, the “**Irrigation Fees**”). A copy of the current rate schedule is enclosed herein as **Exhibit A** for your reference.

The District and the Association thereafter entered into the *Amended and Restated Agreement for the Delivery and Use of Irrigation water*, dated December 16, 2020 (the “**GP Water Agreement**”) which in part i) provides the terms under which the District will provide irrigation water to the Gran Paradiso development; ii) provides the manner in which the Irrigation Fees are to be invoiced by the District and paid by the Association; and iii) establishes the ability of the District to set rates, fees, and charges related to its provision of irrigation water to the development and to revise same which shall thereafter apply without the need for amendment to the GP Water Agreement.¹⁰

I hope that this letter served to educate you on the District’s irrigation program, but should you have any questions please do not hesitate to contact me at (941) 244-2805 or wcrosley@sdsinc.org.

Sincerely,



William Crosley
West Villages Improvement District
District Manager

CC: Association Board of Directors (via e-mail)
John Meisel- jmeiselgpboard@gmail.com
Pam Kantola- pkantolagpboard@gmail.com
Phil Stokes- pstokesgpboard@gmail.com
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⁹ As discussed above, the Permit provides for wellfield flexibility and so the lands within Gran Paradiso rely upon wells located outside of the development but within Unit 6, and lands within Unit 6 similarly rely upon the Wells within Gran Paradiso, to provide irrigation water. As a result, the well availability fee applies to any property that receives irrigation water from the District. This is similar to the manner in which special assessments are allocated- against all benefitting properties when the infrastructure together serves the entirety of a development area, rather than only against the areas within which the improvements are physically located.

¹⁰ Section 12 of the Declaration, among other documents recorded in the Official Records of Sarasota County, Florida, additionally discloses the existence of the District and its authority to levy and collect assessments, rates, fees and charges to provide and operate public infrastructure improvements.

Enclosure

EXHIBIT A

CURRENT IRRIGATION WATER RATE SCHEDULE

All rates have been established in accordance with that certain *Irrigation Rate Analysis- Draft Report*, dated August 31, 2018.

Proposed Reclaimed Water Rates¹ Per 1 ERU

<u>Rates</u>	<u>Tier 1³</u>	<u>Tier 2³</u>
<i>Variable Operating/ Usage Rate²</i>	\$0.73	\$1.46
<i>Fixed Capital Rate</i>	\$1.39	\$1.39
<i>Fixed Well Availability Rate</i>	\$4.17	\$4.17

¹ Rates may be increased by the District at the beginning of each fiscal year by an amount not to exceed the greater of: i) 5.5% (i.e. the 10-year average of the United States CPI- Water and Sewerage Maintenance Series at the time of adoption of these rates), or ii) the year-over-year change in the United States CPI- Water & Sewerage Maintenance Series without the need for a further public hearing.

² Monthly operating/usage fees will ultimately be calculated per each 1,000 gallons utilized monthly.

³ Tier 2 operating rates will apply for those customers exceeding 1.5 times their monthly irrigation allocation (hereinafter the "Monthly Allocation") based on *AGMOD Demand Calculations*, as determined by the District Engineer and the Operations Manager. The Monthly Allocation shall be calculated by multiplying the *AGMOD Demand Calculations* (expressed in gallons per day) by the number of days in a given month. Monthly Allocations will fluctuate depending on peak /off peak periods, and will accommodate applicable grow-in practices for new construction, as determined to be appropriate by the District Engineer and Operations Manager. Tier 2 rates will only be applied to usage that exceeds the Monthly Allocation.

ERUs Per Customer Class

<u>Product Type</u>	<u>Metric</u>	<u>ERU</u>
Single-Family ¹ Residential Unit	1 unit	1
Multi-Family ² Residential Unit	1 unit	.33
Commercial Irrigable Acres ³	.075 irrigable acres	1
Recreational Irrigable Acres ⁴	.075 irrigable acres	1

¹ A single-family unit is defined as a building containing not more than two (2) dwellings.

² A multi-family unit is defined as a building containing more than two (2) dwellings.

³ Irrigable acreage for commercial property is calculated based on 16% of the net developable area (i.e. gross land area less major roadway right-of-way and wetland areas) for each parcel.

⁴ Irrigable acreage for recreational property (i.e. golf courses, parks, athletic facilities, etc.) is calculated based on an estimate of the irrigable area for the property as conducted by a Professional Engineer.