**Form 5** - Rev. 2004 - **(Attorney's Affidavit)**

**ATTORNEY'S AFFIDAVIT**

STATE OF \_\_\_\_[name of State]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_[name of County]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BEFORE ME, the undersigned authority, on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who is to me well known, and having been sworn upon oath, deposes and states:

1. My name is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, I am over the age of twenty-one (21) years, am otherwise *sui juris,* and have personal knowledge of the facts asserted herein.

2. I am a licensed attorney, Florida Bar #\_\_\_\_\_\_\_\_\_\_\_\_\_, authorized to practice law in Florida and am currently practicing law in the State of Florida. My business address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. My business telephone number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ . My business mailing address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

3. This Affidavit is given as an inducement to the Board of County Commissioners of Collier County, Florida, as the governing body of Collier County and as the Ex-Officio Governing Board of the Collier County Water-Sewer District to accept the dedication or conveyance of [identify type of utility facility by inserting potable water, non-potable irrigation water, or wastewater, or potable water and wastewater, and/or non-potable irrigation water] utility system(s) or portion(s) thereof located within or upon the real property described in the attached Exhibit “A”, which is incorporated herein by reference, said land being located in Collier County, Florida.

4. The Affiant has examined record title information to the underlying real property and the utility facilities being conveyed to the County referenced in this affidavit, including but not limited to, information requested from the Florida Secretary of State relative to any Uniform Commercial Code financing statements.

 5. The record owner of the underlying real property described herein is [give full legal name of owner as it appears in title information; if owner is an entity, make reference to the laws of the state or jurisdiction under which entity was created and presently operates] (hereinafter "Owner"). The Owner acquired record title to the subject real property by instrument recorded at Official Records Book \_\_\_\_\_\_\_, at Page \_\_\_\_\_\_\_ [insert official record book and first page of instrument where owner acquired title], Public Records, Collier County, Florida.

[INSTRUCTION: If the record owner is an entity, the Affiant must indicate that he has examined corporate or partnership information obtained from the jurisdiction under which the entity was created and presently operates, that the entity is current and active within said State or jurisdiction, that the entity is currently authorized to do business in the State of Florida, and identify the exact name and title of the persons authorized to execute the instruments on behalf of that entity in conjunction with the conveyance of the subject real and personal property. Pursuant to Section 689.071, Florida Statutes, IF the record owner is a trustee, the Affiant shall state that the Trustee has full power and authority to execute instruments of conveyance on behalf of the Trust and, if applicable, incorporate by reference and attach supporting documentation.] [If the record owner is an individual, the Affiant must state the marital status represented to the Affiant by the individual and, if married, state whether the real property is or is not homestead property. If the utility facilities being conveyed are located wholly within public right-of-way, the Affidavit should state that fact.]

6. Title to the subject utility system(s) or portion(s) thereof and/or easement(s), if any, being conveyed to the County is not encumbered of record.

**OR**

Title to the utility system(s) or portion(s) thereof and/or easement(s) being conveyed to the County is encumbered by the following instruments of record:

1. Mortgage (or Assignment of Rents and Profits) [describe only recorded instruments that impress a security interest against title to the system(s) or portion(s) thereof and/or any easement being conveyed to the County] to [list name of the mortgagee(s)] \_\_\_\_\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_, \_\_\_\_\_\_, and recorded at O.R. Book \_\_\_\_, Page \_\_\_\_\_ et seq., Public Records of Collier County.

2. UCC-1 Financing Statement, recorded at O.R. Book \_\_\_\_\_\_, Page \_\_\_\_\_\_, Public Records of Collier County.

3. UCC-1 recorded with Florida Secretary of State at Tallahassee (Leon County), Florida at O.R. Book \_\_\_\_\_\_\_, page \_\_\_\_\_\_.

[INSTRUCTION: The Affiant must list each mortgage, assignment of rents and profits, UCC-1(s) or other security instrument that impress a security interest that could negatively affect conveyance of good title to the utility system(s) or portion(s) thereof and/or easement(s), if any, being conveyed to the County. If marketable title to the utility system(s) or portion(s) thereof and/or any easement(s) being conveyed is encumbered by any such recorded instrument, the Affiant shall describe the respective security instrument, including the book and first page where the security instrument has been recorded. It is not necessary to attach a copy of any such document to the Affidavit. **This Affidavit must list each security interest that is listed in the Owner's Affidavit, and each such security interest must be subordinated.** Do not list a Notice of Commencement or Reservation of Mineral Rights, etc., because such instruments do not negatively affect marketable title to the utility system(s) or portion(s) thereof and/or easement(s) being conveyed to the County. If all of the utility facilities being conveyed to the County are located in public right-of-way, do not list mortgages, etc., if they do not encumber after acquired property that is located in public right-of-way. Claims asserted under Chapter 713, Florida Statutes, must be “transferred to security” pursuant to Section 713.24, Florida Statutes, or other adequate security acceptable to the County Attorney must be provided to the County before the County will grant preliminary acceptance of title to such facilities.

7. Affiant further states that the information contained in this Affidavit is true, correct and current as of the date this Affidavit is given.

[INSTRUCTION: Unless the time period is extended by staff for good cause in the specific instance, per Ordinance, the date of this Affidavit should not be dated earlier than sixty (60) days prior to the submittal of legal documents pertaining to Utility Conveyance to Collier County, Engineering Services to consider preliminary acceptance of the subject utility system(s) or portion(s) thereof documents.]

**FURTHER AFFIANT SAYETH NAUGHT.**

DATED this \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney/Affiant’s Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney/Affiant’s Name

SWORN TO AND SUBSCRIBED before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by   (name of attorney/affiant making statement)  , who is ☐ personally known or ☐ produced \_\_\_(type of identification produced)\_\_\_ as identification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature of Notary Public)

 [Notarial Stamp]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Printed or Typed Name of Notary Public)

Prepared by: [name of person preparing this instrument]

[Address of person preparing this instrument]

07/2021