

GREENBRIAR

**COMMUNITY DEVELOPMENT
DISTRICT**

April 11, 2024

BOARD OF SUPERVISORS

**PUBLIC HEARINGS
AND REGULAR
MEETING AGENDA**

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

AGENDA
LETTER

Greenbriar Community Development District
OFFICE OF THE DISTRICT MANAGER
2300 Glades Road, Suite 410W•Boca Raton, Florida 33431
Phone: (561) 571-0010•Toll-free: (877) 276-0889•Fax: (561) 571-0013

April 4, 2024

Board of Supervisors
Greenbriar Community Development District

Dear Board Members:

The Board of Supervisors of the Greenbriar Community Development District will hold Public Hearings and a Regular Meeting on April 11, 2024, immediately following the adjournment of the Landowners' Meeting, scheduled to commence at 1:00 p.m., at the offices of Regional Development, 50 Silver Forest Drive, Suite 203, St. Augustine, Florida 32092. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments
3. Administration of Oath of Office to Elected Board of Supervisors *(the following will also be provided in a separate package)*
 - A. Required Ethics Training and Disclosure Filing
 - Sample Form 1 2023/Instructions
 - B. Membership, Obligation and Responsibilities
 - C. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees
 - D. Form 8B: Memorandum of Voting Conflict for County, Municipal and other Local Public Officers
4. Consideration of Resolution 2024-32, Canvassing and Certifying the Results of the Landowners' Election of Supervisors Held Pursuant to Section 190.006(2), Florida Statutes, and Providing for an Effective Date
5. Consideration of Resolution 2024-33, Designating Certain Officers of the District, and Providing for an Effective Date
6. Public Hearing to Hear Public Comments and Objections to the Adoption of the Rules of Procedure, Pursuant to Sections 120.54 and 190.035, Florida Statutes
 - A. Affidavits of Publication

ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

- B. Consideration of Resolution 2024-34, Adopting Rules of Procedure; Providing a Severability Clause; and Providing an Effective Date
7. Public Hearing on Adoption of Fiscal Year 2023/2024 Budget
 - A. Affidavit of Publication
 - B. Consideration of Resolution 2024-35, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024; Authorizing Budget Amendments; and Providing an Effective Date
8. Consideration of Resolution 2024-36, Approving Proposed Budget(s) for Fiscal Year 2024/2025 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date
9. Consideration of Resolution 2024-15, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2023/2024 and Providing for an Effective Date
10. Consideration of Resolution 2024-37, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2024/2025 and Providing for an Effective Date
11. Acceptance of Unaudited Financial Statements as of February 29, 2024
12. Approval of March 12, 2024 Public Hearings and Regular Meeting Minutes
13. Staff Reports
 - A. District Counsel: *Kutak Rock LLP*
 - B. District Engineer (Interim): *England-Thims & Miller*
 - C. District Manager: *Wrathell, Hunt and Associates, LLC*

- NEXT MEETING: TBD

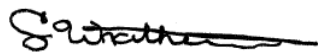
○ QUORUM CHECK

SEAT 1		☐ IN-PERSON	☐ PHONE	☐ NO
SEAT 2		☐ IN-PERSON	☐ PHONE	☐ NO
SEAT 3		☐ IN-PERSON	☐ PHONE	☐ NO
SEAT 4		☐ IN-PERSON	☐ PHONE	☐ NO
SEAT 5		☐ IN-PERSON	☐ PHONE	☐ NO

14. Board Members' Comments/Requests
15. Public Comments
16. Adjournment

Should have any questions or concerns, please do not hesitate to contact me directly at (561) 719-8675 or Ernesto Torres at (904) 295-5714.

Sincerely,



Craig Wrathell
District Manager

FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE

CALL-IN NUMBER: 1-888-354-0094

PARTICIPANT PASSCODE: 413 553 5047

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

3A

MEMORANDUM

To: Board of Supervisors

From: District Counsel

Date: January 1, 2024

Subject: Ethics Training Requirements

Beginning January 1, 2024, all Board Supervisors of Florida Community Development Districts will be required to complete four (4) hours of Ethics training each year. The four (4) hours must be allocated to the following categories: two (2) hours of Ethics Law, one (1) hour of Sunshine Law, and one (1) hour of Public Records law.

This training may be completed online, and the four (4) hours do not have to be completed all at once. The Florida Commission on Ethics (“COE”) has compiled a list of resources for this training. An overview of the resources are described below, and links to the resources are included in this memo.

Each year when Supervisors complete the required financial disclosure form (Form 1 Statement of Financial Interests), Supervisors must mark a box confirming that he or she has completed the Ethics training requirements. At this time, there is no requirement to submit a certificate; however, the COE advises that Supervisors keep a record of all trainings completed (including date and time of completion), in the event Supervisors are ever asked to provide proof of completion. The training is a calendar year requirement and corresponds to the form year. So, Supervisors will not report their 2024 training until they fill out their Form 1 for the 2025 year.

Free Training Options

The Florida Commission on Ethics’ (“COE”) website has several free online resources and links to resources that Supervisors can access to complete the training requirements. Navigate to that page here: [Florida Commission on Ethics Training](https://ethics.state.fl.us/Training/Training.aspx).¹ Please note that the COE only provides free training for the two (2) hour Ethics portion of the annual training. However, the COE does provide links to free outside resources to complete the Sunshine and Public Records portion of the training. These links are included in this memorandum below for your ease of reference.

¹ <https://ethics.state.fl.us/Training/Training.aspx>

Free Ethics Law Training

The COE provides several videos for Ethics training, none of which are exactly two (2) hours in length. Please ensure you complete 120 minutes of Ethics training when choosing a combination of the below.

State Ethics Laws for Constitutional Officers & Elected Municipal Officers (100 minutes)

Click here: [Kinetic Ethics](#)

Business and Employment Conflicts and Post-Public-Service (56 minutes) Restriction

Click here: [Business and Employment Conflicts](#)

Gifts (50 minutes)

Click here: [Ethics Laws Governing Acceptance of Gifts](#)

Voting Conflicts - Local Officers (58 minutes)¹

Click here: [Voting Vertigo](#)

Free Sunshine/Public Records Law Training

The Office of the Attorney General provides a two (2) hour online training course (audio only) that meets the requirements of the Sunshine Law and Public Records Law portion of Supervisors' annual training.

Click here to access: [Public Meeting and Public Records Law](#)

Other Training Options

4- Hour Course

Some courses will provide a certificate upon completion (not required), like the one found from the Florida State University, Florida Institute of Government, linked here: [4-Hour Ethics Course](#). This course meets all the ethics training requirements for the year, including Sunshine Law and Public Records training. This course is currently \$79.00

CLE Course

The COE's website includes a link to the Florida Bar's Continuing Legal Education online tutorial which also meets all the Ethics training requirements. However, this is a CLE course designed more specifically for attorneys. The 5 hours 18 minutes' long course exceeds the 4-hour requirement and its cost is significantly higher than the 4-Hour Ethics course provided by the Florida State University. The course is currently \$325.00. To access this course, click here: [Sunshine Law, Public Records and Ethics for Public Officers and Public Employees](#).

If you have any questions, please do not hesitate to contact me.

2023 Form 1 - Statement of Financial Interests

General Information

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization

SAMPLE

Suborganization

SAMPLE

Title

SAMPLE

Disclosure Period

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR CALENDAR YEAR ENDING DECEMBER 31, 2023 .

Primary Sources of Income

PRIMARY SOURCE OF INCOME (Over \$2,500) (Major sources of income to the reporting person)
(If you have nothing to report, write "none" or "n/a")

Name of Source of Income	Source's Address	Description of the Source's Principal Business Activity

Secondary Sources of Income

SECONDARY SOURCES OF INCOME (Major customers, clients, and other sources of income to businesses owned by the reporting person) (If you have nothing to report, write "none" or "n/a")

Name of Business Entity	Name of Major Sources of Business' Income	Address of Source	Principal Business Activity of Source

Real Property

REAL PROPERTY (Land, buildings owned by the reporting person)
(If you have nothing to report, write "none" or "n/a")

Location/Description

Intangible Personal Property

INTANGIBLE PERSONAL PROPERTY (Stocks, bonds, certificates of deposit, etc. over \$10,000)
(If you have nothing to report, write "none" or "n/a")

Type of Intangible	Business Entity to Which the Property Relates

Liabilities

LIABILITIES (Major debts valued over \$10,000):
(If you have nothing to report, write "none" or "n/a")

Name of Creditor	Address of Creditor

Interests in Specified Businesses

INTERESTS IN SPECIFIED BUSINESSES (Ownership or positions in certain types of businesses)
(If you have nothing to report, write "none" or "n/a")

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

Signature of Filer

Digitally signed:

Filed with COE:

E-FILING SAMPLE

2023 Form 1 Instructions

Statement of Financial Interests

Notice

The annual Statement of Financial Interest is due July 1, 2024. If the annual form is not submitted via the electronic filing system created and maintained by the Commission September 3, 2024, an automatic fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500. Failure to file also can result in removal from public office or employment. [s. 112.3145, F.S.]

In addition, failure to make any required disclosure constitutes grounds for and may be punished by one or more of the following: disqualification from being on the ballot, impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not exceeding \$10,000. [s. 112.317, F.S.]

When To File:

Initially, each local officer/employee, state officer, and specified state employee must file **within 30 days** of the date of his or her appointment or of the beginning of employment. Appointees who must be confirmed by the Senate must file prior to confirmation, even if that is less than 30 days from the date of their appointment.

Candidates must file at the same time they file their qualifying papers.

Thereafter, file by July 1 following each calendar year in which they hold their positions.

Finally, file a final disclosure form (Form 1F) within 60 days of leaving office or employment. Filing a CE Form 1F (Final Statement of Financial Interests) does not relieve the filer of filing a CE Form 1 if the filer was in his or her position on December 31, 2023.

Who Must File Form 1

1. Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
2. Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding those required to file full disclosure on Form 6 as well as members of solely advisory bodies, but including judicial nominating commission members; Directors of Enterprise Florida, Scripps Florida Funding Corporation, and Career Source Florida; and members of the Council on the Social Status of Black Men and Boys; the Executive Director, Governors, and senior managers of Citizens Property Insurance Corporation; Governors and senior managers of Florida Workers' Compensation Joint Underwriting Association; board members of the Northeast Fla. Regional Transportation Commission; board members of Triumph Gulf Coast, Inc; board members of Florida Is For Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.
3. The Commissioner of Education, members of the State Board of Education, the Board of Governors, the local Boards of Trustees and Presidents of state universities, and the Florida Prepaid College Board.
4. Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file Form 6.
5. Appointed members of the following boards, councils, commissions, authorities, or other bodies of county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; community college or junior college district boards of trustees; boards having the power to enforce local code provisions; boards of adjustment; community redevelopment agencies; planning or zoning boards having the power to recommend, create, or modify land planning or zoning within a political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, and except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; pension or retirement boards empowered to invest pension or retirement funds or determine entitlement to or amount of pensions or other retirement benefits, and the Pinellas County Construction Licensing Board.
6. Any appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
7. Persons holding any of these positions in local government: county or city manager; chief administrative employee or finance director of a county, municipality, or other political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$35,000 for the local governmental unit.

8. Officers and employees of entities serving as chief administrative officer of a political subdivision.
9. Members of governing boards of charter schools operated by a city or other public entity.
10. Employees in the office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
11. The following positions in each state department, commission, board, or council: Secretary, Assistant or Deputy Secretary, Executive Director, Assistant or Deputy Executive Director, and anyone having the power normally conferred upon such persons, regardless of title.
12. The following positions in each state department or division: Director, Assistant or Deputy Director, Bureau Chief, and any person having the power normally conferred upon such persons, regardless of title.
13. Assistant State Attorneys, Assistant Public Defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel, Public Counsel, full-time state employees serving as counsel or assistant counsel to a state agency, administrative law judges, and hearing officers.
14. The Superintendent or Director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.
15. State agency Business Managers, Finance and Accounting Directors, Personnel Officers, Grant Coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$35,000.
16. The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.
17. Each member of the governing body of a "large-hub commercial service airport," as defined in Section 112.3144(1)(c), Florida Statutes, except for members required to comply with the financial disclosure requirements of s. 8, Article II of the State Constitution.

ATTACHMENTS: A filer may include and submit attachments or other supporting documentation when filing disclosure.

PUBLIC RECORD: The disclosure form is a public record and is required by law to be posted to the Commission's website. Your Social Security number, bank account, debit, charge, and credit card numbers, mortgage or brokerage account numbers, personal identification numbers, or taxpayer identification numbers are not required and should not be included. If such information is included in the filing, it may be made available for public inspection and copying unless redaction is required by the filer, without any liability to the Commission. If you are an active or former officer or employee listed in Section 119.071, F.S., whose home address or other information is exempt from disclosure, the Commission will maintain that confidentiality *if you submit a written and notarized request.*

QUESTIONS about this form or the ethics laws may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303; telephone (850) 488-7864.

Instructions for Completing Form 1

Primary Sources of Income

[Required by s. 112.3145(3)(b)1, F.S.]

This section is intended to require the disclosure of your principal sources of income during the disclosure period. You do not have to disclose any public salary or public position(s). The income of your spouse need not be disclosed; however, if there is joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should disclose the source of that income if it exceeded the threshold.

Please list in this part of the form the name, address, and principal business activity of each source of your income which exceeded \$2,500 of gross income received by you in your own name or by any other person for your use or benefit.

"Gross income" means the same as it does for income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples include: compensation for services, income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, social security, distributive share of partnership gross income, and alimony if considered gross income under federal law, but not child support.

Examples:

- If you were employed by a company that manufactures computers and received more than \$2,500, list the name of the company, its address, and its principal business activity (computer manufacturing).
- If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$2,500, list the name of the firm, its address, and its principal business activity (practice of law).
- If you were the sole proprietor of a retail gift business and your gross income from the business exceeded \$2,500, list the name of the business, its address, and its principal business activity (retail gift sales).
- If you received income from investments in stocks and bonds, list each individual company from which you derived more than \$2,500. Do not aggregate all of your investment income.

- If more than \$2,500 of your gross income was gain from the sale of property (not just the selling price), list as a source of income the purchaser's name, address and principal business activity. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed as "sale of (name of company) stock," for example.
- If more than \$2,500 of your gross income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and its principal business activity.

Secondary Sources of Income

[Required by s. 112.3145(3)(b)2, F.S.]

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. It is not for reporting income from second jobs. That kind of income should be reported in "Primary Sources of Income," if it meets the reporting threshold. You will not have anything to report unless, during the disclosure period:

1. You owned (either directly or indirectly in the form of an equitable or beneficial interest) more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, LLC, limited partnership, proprietorship, joint venture, trust, firm, etc., doing business in Florida); **and,**
2. You received more than \$5,000 of your gross income during the disclosure period from that business entity.

If your interests and gross income exceeded these thresholds, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's most recently completed fiscal year), the source's address, and the source's principal business activity.

Examples:

- You are the sole proprietor of a dry cleaning business, from which you received more than \$5,000. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of the uniform rental company, its address, and its principal business activity (uniform rentals).
- You are a 20% partner in a partnership that owns a shopping mall and your partnership income exceeded the above thresholds. List each tenant of the mall that provided more than 10% of the partnership's gross income and the tenant's address and principal business activity.

Real Property

[Required by s. 112.3145(3)(b)3, F.S.]

In this part, list the location or description of all real property in Florida in which you owned directly or indirectly at any time during the disclosure period in excess of 5% of the property's value. You are not required to list your residences. You should list any vacation homes if you derive income from them.

Indirect ownership includes situations where you are a beneficiary of a trust that owns the property, as well as situations where you own more than 5% of a partnership or corporation that owns the property. The value of the property may be determined by the most recently assessed value for tax purposes, in the absence of a more accurate fair market value.

The location or description of the property should be sufficient to enable anyone who looks at the form to identify the property. A street address should be used, if one exists.

Intangible Personal Property

[Required by s. 112.3145(3)(b)3, F.S.]

Describe any intangible personal property that, at any time during the disclosure period, was worth more than \$10,000 and state the business entity to which the property related. Intangible personal property includes things such as cash on hand, stocks, bonds, certificates of deposit, vehicle leases, interests in businesses, beneficial interests in trusts, money owed you (including, but not limited to, loans made as a candidate to your own campaign), Deferred Retirement Option Program (DROP) accounts, the Florida Prepaid College Plan, and bank accounts in which you have an ownership interest. Intangible personal property also includes investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan. Note that the product contained in a brokerage account, IRA, or the Florida College Investment Plan is your asset—not the account or plan itself. Things like automobiles and houses you own, jewelry, and paintings are not intangible property. Intangibles relating to the same business entity may be aggregated; for example, CDs and savings accounts with the same bank. Property owned as tenants by the entirety or as joint tenants with right of survivorship, including bank accounts owned in such a manner, should be valued at 100%. The value of a leased vehicle is the vehicle's present value minus the lease residual (a number found on the lease document).

Liabilities

[Required by s. 112.3145(3)(b)4, F.S.]

List the name and address of each creditor to whom you owed more than \$10,000 at any time during the disclosure period. The amount of the liability of a vehicle lease is the sum of any past-due payments and all unpaid prospective lease payments. You are not required to list the amount of any debt. You do not have to disclose credit card and retail installment accounts, taxes owed (unless reduced to a judgment), indebtedness on a life insurance policy owed to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" and are jointly liable or jointly and severally liable, then it is not a contingent liability.

Interests in Specified Businesses

[Required by s. 112.3145(7), F.S.]

The types of businesses covered in this disclosure include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies, utility companies, entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

Disclose in this part the fact that you owned during the disclosure period an interest in, or held any of certain positions with the types of businesses listed above. You must make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of businesses for which you are, or were at any time during the disclosure period, an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list the name of the business, its address and principal business activity, and the position held with the business (if any). If you own(ed) more than a 5% interest in the business, indicate that fact and describe the nature of your interest.

Training Certification

[Required by s. 112.3142, F.S.]

If you are a Constitutional or elected municipal officer appointed school superintendent, a commissioner of a community redevelopment agency created under Part III, Chapter 163, or an elected local officers of independent special districts, including any person appointed to fill a vacancy on an elected special district board, whose service began on or before March 31 of the year for which you are filing, you are required to complete four hours of ethics training which addresses Article II, Section 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and open meetings laws of the state. You are required to certify on this form that you have taken such training.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

3B

BOARD OF SUPERVISORS

MEMBERSHIP, OBLIGATIONS AND RESPONSIBILITIES

A Community Development District ("District") is a special-purpose unit of local government which is established pursuant to and governed by Chapter 190, Florida Statutes.

The Board

The Community Development District ("District") is governed by a five (5)-member Board of Supervisors ("Board"). Member of the Board "Supervisor(s)" are elected in accordance with Section 190.006, F.S., either upon a one (1)-vote per one (1)-acre basis ("landowner voting") or through traditional elections ("resident voting"), depending upon the number of registered voters in the District and the length of time which has passed since the establishment of the District.

A CDD Board typically meets once per month, but may meet more often if necessary. Board meetings typically last from one (1) to three (3) hours, depending upon the business to be conducted by the Board. Prior to the meeting, each Supervisor is supplied with an agenda package which will contain the documents pertaining to the business to be considered by the Board at a particular meeting. A Supervisor should be willing to spend time reviewing these packages prior to each meeting, and may consult with District Staff (General Counsel, Management, Engineering, etc.) concerning the business to be addressed.

Qualifications of Supervisors

Each Supervisor must be a resident of the state of Florida and a citizen of the United States. Once a District has transitioned to resident voting, Supervisors must also be residents of the District.

Compensation

By statute, Board Members are entitled to be paid \$200 per meeting for their service, up to an annual cap of \$4,800 per year. To achieve the statutory cap, the District would have to meet twice each month, which is rare.

Sometimes Supervisors who are employees of the primary landowner waive their right to compensation, although this is not always the case.

Responsibilities of Supervisors

The position of Supervisor is that of an elected local public official. It is important to always remember that serving as an elected public official of a District carries with it certain restrictions and obligations. Each Supervisor, upon taking office, must subscribe to an oath of office acknowledging that he/she is a public officer, and as a recipient of public funds, a supporter of the constitutions of the State of Florida and of the United States of America.

Each Supervisor is subject to the same financial disclosure requirements as any other local elected official and must file a Statement of Financial Interests disclosing

sources of income, assets, debts, and other financial data, with the Supervisor of Elections in the County where he/she resides.

A Supervisor must act in accordance with the Code of Ethics for Public Officers and Employees, codified at Part III, Chapter 112, F.S., which addresses acceptance of gifts, conflicts of interest, etc. By law, it is not a conflict of interest for an employee of the developer to serve on a CDD Board of Supervisors.

Since a District is a unit of local government, the Sunshine Law (Chapter 286, F.S.) applies to Districts and to the Supervisors who govern them. In brief, the Sunshine Law states that two(2) or more Supervisors may never meet outside of a publicly noticed meeting of the Board and/to discuss District business.

Florida's Public Records Law (Chapter 119, F.S.) also applies to Districts and Supervisors. All records of the District, and the records of each individual Supervisor relating to the District, are public records. As such, any member of the public may inspect them upon request. Supervisors are therefore urged to keep any District records or documents in a separate file to allow ease of access by the public or press.

Conclusion

The position of Supervisor of a Community Development District is an important one, requiring both the time and the dedication to fulfill the responsibilities of a position of public trust. It should not be undertaken lightly. Each new Supervisor should enter office fully cognizant of the ethical, legal, and time requirements which are incumbent upon those who serve as Supervisors.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

3C

FLORIDA COMMISSION ON ETHICS



GUIDE to the SUNSHINE AMENDMENT and CODE of ETHICS for Public Officers and Employees

2024

State of Florida

COMMISSION ON ETHICS

Ashley Lukis, *Chair*
Tallahassee

Michelle Anchors, *Vice Chair*
Fort Walton Beach

William P. Cervone
Gainesville

Tina Descovich
Indialantic

Freddie Figgers
Fort Lauderdale

Luis M. Fusté
Coral Gables

Wengay M. Newton, Sr.
St. Petersburg

Kerrie Stillman
Executive Director
P.O. Drawer 15709
Tallahassee, FL 32317-5709
www.ethics.state.fl.us
(850) 488-7864*

*Please direct all requests for information to this number.

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I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.

Criminal penalties, which initially applied to violations of the Code, were eliminated in 1974 in favor of administrative enforcement. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

II. ROLE OF THE COMMISSION ON ETHICS

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use by Supervisors of Elections and the Commission in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

III. THE ETHICS LAWS

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.].

A. PROHIBITED ACTIONS OR CONDUCT

1. Solicitation and Acceptance of Gifts

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than \$100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec. 112.3148, Fla. Stat.]

However, notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than \$100 that formerly

were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

2. Unauthorized Compensation

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

3. Misuse of Public Position

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

4. Abuse of Public Position

Public officers and employees are prohibited from abusing their public positions in order to obtain a disproportionate benefit for themselves or certain others. [Article II, Section 8(h), Florida Constitution.]

5. Disclosure or Use of Certain Information

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position, for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

6. *Solicitation or Acceptance of Honoraria*

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to \$5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

B. **PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS**

1. *Doing Business With One's Agency*

- a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or

services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

- b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

2. *Conflicting Employment or Contractual Relationship*

- a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]
- b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]
- c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

3. *Exemptions*—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:

- a) When the business is rotated among all qualified suppliers in a city or county.
- b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter

the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

- c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.
- d) When an emergency purchase must be made to protect the public health, safety, or welfare.
- e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.
- f) When the aggregate of any such transactions does not exceed \$500 in a calendar year.
- g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.
- h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).
- i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.
- j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of

the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

4. *Additional Exemptions*

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.]

5. *Legislators Lobbying State Agencies*

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

6. *Additional Lobbying Restrictions for Certain Public Officers and Employees*

A statewide elected officer; a member of the legislature; a county commissioner; a county officer pursuant to Article VIII or county charter; a school board member; a superintendent of schools; an elected municipal officer; an elected special district officer in a special district with ad valorem taxing authority; or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office. [Art. II Sec 8(f)(2), Fla. Const. and Sec. 112.3121, Fla. Stat.]

7. *Employees Holding Office*

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

8. *Professional and Occupational Licensing Board Members*

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

9. *Contractual Services: Prohibited Employment*

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

10. *Local Government Attorneys*

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

11. *Dual Public Employment*

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES

1. *Anti-Nepotism Law*

A public official is prohibited from seeking for a relative any appointment, employment, promotion, or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute “jurisdiction or control” for the purposes of this prohibition. This provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

2. *Additional Restrictions*

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS

1. *Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers*

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

2. *Lobbying by Former State Employees*

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

- a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.
- b) serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

PENALTIES: Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

3. *6-Year Lobbying Ban*

For a period of six years after vacation of public position occurring on or after December 31, 2022, a statewide elected officer or member of the legislature shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature or any state government body or agency. [Art. II Sec 8(f)(3)a., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department. [Art. II Sec 8(f)(3)b., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority shall not lobby for compensation on issues of policy, appropriations, or procurement before his or her former agency or governing body. [Art. II Sec 8(f)(3)c., Fla. Const. and Sec. 112.3121, Fla. Stat.]

4. *Additional Restrictions on Former State Employees*

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec.112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

5. *Lobbying by Former Local Government Officers and Employees*

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

E. VOTING CONFLICTS OF INTEREST

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible, it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

F. DISCLOSURES

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

1. FORM 1 - Limited Financial Disclosure

Who Must File:

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

- 1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is

for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.

- 3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, local boards of trustees and presidents of state universities, and members of the Florida Prepaid College Board.

LOCAL OFFICERS include:

- 1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.
- 3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
- 4) Persons holding any of these positions in local government: county or city manager; chief administrative employee or finance director of a county, municipality, or other

political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$35,000 for the local governmental unit.

- 5) Members of governing boards of charter schools operated by a city or other public entity.
- 6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

- 1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
- 2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.
- 3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.

- 4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.
- 5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.
- 6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$35,000.
- 7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

What Must Be Disclosed:

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When to File:

CANDIDATES who do not currently hold a position requiring the filing of a Form 1 or Form 6 must register and use the electronic filing system to complete the Form 6, then print and file the disclosure with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

Where to File:

File with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

Beginning January 1, 2024, all Form 1 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name or organization on the Commission's website.

2. *FORM 1F - Final Form 1 Limited Financial Disclosure*

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

3. *FORM 2 - Quarterly Client Disclosure*

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the

issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

Where To File:

File with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

Beginning January 1, 2024, all Form 2 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable on the Commission's website.

4. *FORM 6 - Full and Public Disclosure*

Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of a city council and candidates for these offices; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); members of the Florida Housing Finance Corporation Board and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over \$1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When and Where To File:

Officials must file FORM 6 annually by July 1 with the Commission on Ethics.

Beginning January 1, 2023, all Form 6 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name and organization on the Commission's website.

CANDIDATES who do not currently hold a position requiring the filing of a Form 1 or Form 6 must register and use the electronic filing system to complete the Form 6, then print and file the disclosure with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

5. *FORM 6F - Final Form 6 Full and Public Disclosure*

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

6. *FORM 9 - Quarterly Gift Disclosure*

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics on the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more than \$100, other

than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

7. FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than \$100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year, with the officer's or employee's FORM 1 or FORM 6. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

8. FORM 30 - Donor's Quarterly Gift Disclosure

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than \$100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee: a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between \$25 and \$100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

9. *FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6*

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

IV. AVAILABILITY OF FORMS

Beginning January 1, 2024, LOCAL OFFICERS and EMPLOYEES, and OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file FORM 1 annually must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

ELECTED CONSTITUTIONAL OFFICERS and other officials who must file Form 6 annually, including City Commissioners and Mayors, must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

V. PENALTIES

A. Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$10,000*, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

B. Penalties for Candidates

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed \$10,000*, and triple the value of a gift received from a political committee.

C. Penalties for Former Officers and Employees

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed \$10,000*, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

*Conduct occurring after May 11, 2023, will be subject to a recommended civil penalty of up to \$20,000. [Ch. 2023-49, Laws of Florida.]

D. Penalties for Lobbyists and Others

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to \$5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift or honorarium or fail to comply with the gift reporting requirements for gifts worth between \$25 and \$100, may be penalized by a fine of not more than \$5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined \$50 per day per report for each day the report is late, up to a maximum fine of \$5,000 per report.

E. Felony Convictions: Forfeiture of Retirement Benefits

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

F. Automatic Penalties for Failure to File Annual Disclosure

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of \$25 for each day late the form is filed after September 1, up to a maximum penalty of \$1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

VI. ADVISORY OPINIONS

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

A. *Who Can Request an Opinion*

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

B. *How to Request an Opinion*

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

C. *How to Obtain Published Opinions*

All of the Commission's opinions are available for viewing or download at its website:
www.ethics.state.fl.us.

VII. COMPLAINTS

A. Citizen Involvement

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at www.ethics.state.fl.us. The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

You can download a complaint form (FORM 50) from the Commission's website: www.ethics.state.fl.us, or contact the Commission office at the address or phone number shown on the inside front cover of this booklet.

B. Referrals

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

C. Confidentiality

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

D. How the Complaint Process Works

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented, or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

E. Dismissal of Complaints At Any Stage of Disposition

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

F. Statute of Limitations

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

VIII. EXECUTIVE BRANCH LOBBYING

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report

with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at www.floridalobbyist.gov. Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration
Room G-68, Claude Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1425
Phone: 850/922-4990

IX. WHISTLE-BLOWER'S ACT

In 1986, the Legislature enacted a "Whistle-blower's Act" to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

X. ADDITIONAL INFORMATION

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida's ethics laws. The "Sunshine Amendment" is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at www.ethics.state.fl.us.

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

XI. TRAINING

Constitutional officers, elected municipal officers, commissioners of community redevelopment agencies (CRAs), and commissioners of community development districts are required to receive a total of four hours training, per calendar year, in the area of ethics, public

records, and open meetings. The Commission on Ethics does not track compliance or certify providers. Officials indicate their compliance with the training requirement when they file their annual Form 1 or Form 6.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

3D

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY	☐ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED	NAME OF POLITICAL SUBDIVISION:
	MY POSITION IS: ☐ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a “relative” includes only the officer’s father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A “business associate” means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____ ;
- ☐ inured to the special gain or loss of my relative, _____ ;
- ☐ inured to the special gain or loss of _____ , by
whom I am retained; or
- ☐ inured to the special gain or loss of _____ , which
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

4

RESOLUTION 2024-32

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT CANVASSING AND CERTIFYING THE RESULTS OF THE LANDOWNERS' ELECTION OF SUPERVISORS HELD PURSUANT TO SECTION 190.006(2), *FLORIDA STATUTES*, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Greenbriar Community Development District ("**District**") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within St. Johns County, Florida; and

WHEREAS, pursuant to Section 190.006(2), *Florida Statutes*, a landowners meeting is required to be held within 90 days of the District's creation and every two (2) years following the creation of the District for the purpose of electing supervisors of the District; and

WHEREAS, such landowners meeting was held at which the below recited persons were duly elected by virtue of the votes cast in their favor; and

WHEREAS, the Board of Supervisors of the District, by means of this Resolution, desire to canvas the votes and declare and certify the results of said election.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT:

1. **ELECTION RESULTS.** The following persons are found, certified, and declared to have been duly elected as Supervisors of and for the District, having been elected by the votes cast in their favor as shown:

SEAT NUMBER	NAME OF SUPERVISOR	NUMBER OF VOTES
Seat 1		
Seat 2		
Seat 3		
Seat 4		
Seat 5		

2. **TERMS.** In accordance with Section 190.006(2), *Florida Statutes*, and by virtue of the number of votes cast for the Supervisors, the above-named persons are declared to have been elected for the following term of office:

SEAT NUMBER	NAME OF SUPERVISOR	TERM OF OFFICE
Seat 1		___-Year Term
Seat 2		___-Year Term
Seat 3		___-Year Term
Seat 4		___-Year Term
Seat 5		___-Year Term

3. **EFFECTIVE DATE.** This resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of April, 2024.

ATTEST:

**GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

5

RESOLUTION 2024-33

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT DESIGNATING CERTAIN OFFICERS
OF THE DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the Greenbriar Community Development District (“District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes; and

WHEREAS, the Board of Supervisors of the District desires to designate certain Officers of the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT:**

SECTION 1. _____ is appointed Chair.

SECTION 2. _____ is appointed Vice Chair.

SECTION 3. _____ is appointed Assistant Secretary.

_____ is appointed Assistant Secretary.

_____ is appointed Assistant Secretary.

Ernesto Torres is appointed Assistant Secretary.

SECTION 4. This Resolution supersedes any prior appointments made by the Board for Chair, Vice Chair and Assistant Secretaries; however, prior appointments by the Board for Secretary, Treasurer and Assistant Treasurer(s) remain unaffected by this Resolution.

SECTION 5. This Resolution shall become effective immediately upon its adoption.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PASSED AND ADOPTED this 11th day of April, 2024.

ATTEST:

**GREENBRIAR COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

6A

LOCALiQ

FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Daphne Gillyard
Greenbriar Community Development District
2300 Glades RD # 410W
Boca Raton FL 33431-8556

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of the St Augustine Record, published in St Johns County, Florida; that the attached copy of advertisement, being a Public Notices, was published on the publicly accessible website of St Johns County, Florida, or in a newspaper by print in the issues of, on:

03/07/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 03/07/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$81.60

Order No: 9922124

Customer No: 1344018

PO #:

of Copies:

1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

NOTICE OF RULE DEVELOPMENT BY THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT

In accord with Chapters 120 and 190, Florida Statutes, the Greenbriar Community Development District ("District") hereby gives notice of its intention to develop Rules of Procedure to govern the operations of the District.

The Rules of Procedure will address such areas as the Board of Supervisors, officers and voting, district offices, public information and inspection of records, policies, public meetings, hearings and workshops, rulemaking proceedings, competitive purchase including procedure under the Consultants Competitive Negotiation Act, procedure regarding auditor selection, purchase of insurance, pre-qualification, construction contracts, goods, supplies and materials, maintenance services, contractual services and protests with respect to proceedings, as well as any other area of the general operation of the District.

The purpose and effect of the Rules of Procedure is to provide for efficient and effective District operations and to ensure compliance with Florida law. The legal authority for the adoption of the proposed Rules of Procedure includes Sections 190.011(5), 190.011(15) and 190.035, Florida Statutes. The specific laws implemented in the Rules of Procedure include, but are not limited to, Sections 112.08, 112.3143, 112.3146, 112.3145, 119.07, 119.0701, 189.053, 189.069(2)(a)16, 190.006, 190.007, 190.008, 190.011(3), 190.011(5), 190.011(15), 190.033, 190.035, 218.33, 218.391, 255.05, 255.0518, 255.0525, 255.20, 286.0105, 286.011, 286.0113, 286.0114, 287.017, 287.055 and 287.084, Florida Statutes.

A copy of the proposed Rules of Procedure may be obtained by contacting the District Manager, c/o Wrathell Hunt & Associates, LLC, 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431, Phone: (561) 571-0010.

Craig Wrathell, District Manager
Greenbriar Community Development District

Pub: 3/7/24; #9922124

MARIAH VERHAGEN
Notary Public
State of Wisconsin

LOCALiQ

FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Daphne Gillyard
Greenbriar Community Development District
2300 Glades RD # 410W
Boca Raton FL 33431-8556

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of the St Augustine Record, published in St Johns County, Florida; that the attached copy of advertisement, being a Public Notices, was published on the publicly accessible website of St Johns County, Florida, or in a newspaper by print in the issues of, on:

03/08/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 03/08/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$149.60

Order No: 9922187

Customer No: 1344018

PO #:

of Copies:

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Please do not use this form for payment remittance.

MARIAH VERHAGEN
Notary Public
State of Wisconsin

NOTICE OF RULEMAKING
REGARDING THE RULES OF
PROCEDURE OF THE
GREENBRIAR COMMUNITY
DEVELOPMENT DISTRICT
A public hearing will be conducted
by the Board of Supervisors
("Board") of the Greenbriar
Community Development District
("District") on April 11, 2024, at 1:00
p.m., at the offices of Regional
Development, 50 Silver Forest
Drive, Suite 203, St. Augustine,
Florida 32092.

In accord with Chapters 120 and 190,
Florida Statutes, the District hereby
gives the public notice of its intent
to adopt its proposed Rules of Proce-
dure. The purpose and effect of the
proposed Rules of Procedure is to
provide for efficient and effective
District operations and to ensure
compliance with recent changes to
Florida law. Prior notice of rule
development was published in the
St. Augustine Record on March 7,
2024.

The Rules of Procedure may
address such areas as the Board of
Supervisors, officers and voting,
district offices, public information
and inspection of records, policies,
public meetings, hearings and work-
shops, rulemaking proceedings,
competitive purchase including
procedures under the Consultant
Competitive Negotiation Act, proce-
dure regarding auditor selection,
purchase of insurance, pre-qualifica-
tion, construction contracts, goods,
supplies and materials, maintenance
services, contractual services, and
protests with respect to proceedings,
as well as any other area of the
general operation of the District.

Specific legal authority for the adop-
tion of the proposed Rules of Proce-
dure includes Sections 190.011(5),
190.011(15) and 190.025, Florida
Statutes. The specific laws imple-
mented in the Rules of Procedure
include, but are not limited to,
Sections 112.08, 112.3143, 112.3146,
112.3145, 119.07, 119.0731, 189.023,
189.069(2)(c)14, 190.006, 190.007,
190.008, 190.011(3), 190.011(5),
190.011(15), 190.031, 190.035, 216.23,
218.391, 255.05, 255.0518, 255.0525,
255.20, 266.0105, 266.011, 266.0113,
266.0114, 267.017, 267.035 and 267.084,
Florida Statutes.

A copy of the proposed Rules of
Procedure may be obtained by
contacting the District Manager's
Office at Wrathell, Hunt and Associ-
ates, LLC, 2300 Glades Road, Suite
410W, Boca Raton, Florida 33431,
(561) 571-6010 ("District Manager's
Office").

Any person who wishes to provide
the District with a proposal for a
lower cost regulatory alternative as
provided by Section 120.541(1),
Florida Statutes, must do so in writ-
ing within twenty one (21) days
after publication of this notice to the
District Manager's Office.

This public hearing may be contin-
ued to a date, time, and place to be
specified on the record at the hear-
ing without additional notice. If
anyone chooses to appeal any deci-
sion of the Board with respect to any
matter considered at a public hear-
ing, such person will need a record
of the proceedings and should
accordingly ensure that a verbatim
record of the proceedings is made
which includes the testimony and
evidence upon which such appeal is
to be based. At the hearing, staff or
Supervisors may participate in the
public hearing by speaker telephone.
Pursuant to the provisions of the
Americans with Disabilities Act, any
person requiring special accommoda-
tions of this hearing because of a
disability or physical impairment
should contact the District
Manager's Office at least forty-eight
(48) hours prior to the meeting. If
you are hearing or speech impaired,
please contact the Florida Relay
Service at 1-800-955-8771 or 1-800-955-
8770 for aid in contacting the
District Manager's Office.
Greenbriar Community Develop-
ment District
Craig Wrathell, District Manager
Pub: 3/8/24; #9922187

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

6B

RESOLUTION 2024-34

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT ADOPTING RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Greenbriar Community Development District (“**District**”) is a local unit of special purpose government created and existing pursuant to Chapter 190, *Florida Statutes*, being situated entirely within St. Johns County, Florida; and

WHEREAS, Chapter 190, *Florida Statutes*, authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, to provide for efficient and effective District operations and to maintain compliance with recent changes to Florida law, the Board of Supervisors finds that it is in the best interests of the District to adopt by resolution the Rules of Procedure attached hereto as **Exhibit A** for immediate use and application; and

WHEREAS, the Board of Supervisors has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The attached Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Rules of Procedure shall stay in full force and effect until such time as the Board of Supervisors may amend these rules in accordance with Chapter 190, *Florida Statutes*.

SECTION 2. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 11th day of April, 2024.

ATTEST:

**GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

Exhibit A: Rules of Procedure

EXHIBIT A:
RULES OF PROCEDURE

**RULES OF PROCEDURE
GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT**

EFFECTIVE AS OF APRIL 11, 2024

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Rule 1.0 General.

- (1) The Greenbriar Community Development District (the “District”) was created pursuant to the provisions of Chapter 190 of the Florida Statutes, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the “Rules”) is to describe the general operations of the District.
- (2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.
- (3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.
- (4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 190.011(5), 190.011(15), Fla. Stat.

Rule 1.1 Board of Supervisors; Officers and Voting.

- (1) Board of Supervisors. The Board of Supervisors of the District (the “Board”) shall consist of five (5) members. Members of the Board (“Supervisors”) appointed by ordinance or rule or elected by landowners must be citizens of the United States of America and residents of the State of Florida. Supervisors elected or appointed by the Board to elector seats must be citizens of the United States of America, residents of the State of Florida and of the District and registered to vote with the Supervisor of Elections of the county in which the District is located and for those elected, shall also be qualified to run by the Supervisor of Elections. The Board shall exercise the powers granted to the District under Florida law.
 - (a) Supervisors shall hold office for the term specified by Section 190.006 of the Florida Statutes. If, during the term of office, any Board member(s) vacates their office, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the term(s). If three or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.
 - (b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.
 - (c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.
 - (d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.
- (2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.
 - (a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District’s behalf. The Chairperson shall convene and conduct all meetings of the Board. In the event the Chairperson is unable to attend a

meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

- (b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.
- (c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars (\$1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in at least the amount of one million dollars (\$1,000,000) that names the District as an additional insured.
- (d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Section 190.007(2) and (3) of the Florida Statutes, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars (\$1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in at least the amount of one million dollars (\$1,000,000) that names the District as an additional insured.
- (e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.
- (f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.

- (g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.
- (3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.
- (4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.
- (5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286 of the Florida Statutes.
- (6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by the Florida Constitution and Chapters 112 and 190 of the Florida Statutes, as amended from time to time. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.
 - (a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board

member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

- (b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.
- (c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.
- (d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 112.3143, 190.006, 190.007, Fla. Stat.

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements; Financial Disclosure Coordination.

(1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:

- (a) Agenda packages for prior 24 months and next meeting;
- (b) Official minutes of meetings, including adopted resolutions of the Board;
- (c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;
- (d) Adopted engineer's reports;
- (e) Adopted assessment methodologies/reports;
- (f) Adopted disclosure of public financing;
- (g) Limited Offering Memorandum for each financing undertaken by the District;
- (h) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;
- (i) District policies and rules;
- (j) Fiscal year end audits; and
- (k) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

(2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed as the

District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

- (3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.
- (4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of \$0.15 per page for one-sided copies and \$0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar (\$1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of the individual(s) who is/are qualified to perform the labor, taking into account the nature or volume of the public records to be inspected or copied. The charge may include the labor costs of supervisory and/or clerical staff whose assistance is required to complete the records request, in accordance with Florida law. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in this section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars (\$25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. Should the person fail to pay the estimate, the District is under no duty to produce the requested records. After the request has been fulfilled, additional payments or credits may be

due. The District is under no duty to produce records in response to future records requests if the person making the request owes the District for past unpaid duplication charges, special service charges, or other required payments or credits.

- (5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.
- (6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.
- (7) Financial Disclosure Coordination. Unless specifically designated by Board resolution otherwise, the Secretary shall serve as the Financial Disclosure Coordinator ("Coordinator") for the District as required by the Florida Commission on Ethics ("Commission"). The Coordinator shall create, maintain and update a list of the names, e-mail addresses, physical addresses, and names of the agency of, and the office or position held by, all Supervisors and other persons required by Florida law to file a statement of financial interest due to his or her affiliation with the District ("Reporting Individual"). The Coordinator shall provide this list to the Commission by February 1 of each year, which list shall be current as of December 31 of the prior year. Each Supervisor and Reporting Individual shall promptly notify the Coordinator in writing if there are any changes to such person's name, e-mail address, or physical address. Each Supervisor and Reporting Individual shall promptly notify the Commission in the manner prescribed by the Commission if there are any changes to such person's e-mail address.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 112.31446(3), 112.3145(8)(a)1., 119.07, 119.0701, 190.006, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

- (1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. “General circulation” means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:
- (a) The date, time and place of the meeting, hearing or workshop;
 - (b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;
 - (c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and
 - (d) The following or substantially similar language: “Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (561) 571-0010. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770 or 1 (800) 955-8771, who can aid you in contacting the District Office.”
 - (e) The following or substantially similar language: “A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based.”

- (f) The following or substantially similar language: “The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record.”
- (2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.
- (3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare an agenda of the meeting/hearing/workshop. The agenda and any meeting materials available in an electronic format, excluding any confidential and any confidential and exempt information, shall be available to the public at least seven days before the meeting/hearing/workshop, except in an emergency. Meeting materials shall be defined as, and limited to, the agenda, meeting minutes, resolutions, and agreements of the District that District staff deems necessary for Board approval. Inclusion of additional materials for Board consideration other than those defined herein as “meeting materials” shall not convert such materials into “meeting materials.” For good cause, the agenda may be changed after it is first made available for distribution, and additional materials may be added or provided under separate cover at the meeting. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

- Call to order
- Roll call
- Public comment
- Organizational matters
- Review of minutes
- Specific items of old business
- Specific items of new business
- Staff reports
 - (a) District Counsel
 - (b) District Engineer
 - (c) District Manager
 - 1. Financial Report
 - 2. Approval of Expenditures
- Supervisor’s requests and comments
- Public comment
- Adjournment

- (4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.
- (5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office. Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.
- (6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, upon consultation with the District Manager and District Counsel, if available, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary, and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.
- (7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.
- (8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Section 190.008 of the Florida Statutes. Once adopted in accord with Section 190.008 of the Florida Statutes, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.
- (9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and published

as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

- (10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however, at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.
- (11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Unless such procedure is waived by the Board, approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.
- (12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:
 - (a) The Board identifies on the record at the original meeting a reasonable need for a continuance;
 - (b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and
 - (c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.
- (13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorney must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to

litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened, and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

- (14) Security and Firesafety Board Discussions. Portions of a meeting which relate to or would reveal a security or firesafety system plan or portion thereof made confidential and exempt by section 119.071(3)(a), Florida Statutes, are exempt from the public meeting requirements and other requirements of section 286.011, Florida Statutes, and section 24(b), Article 1 of the State Constitution. Should the Board wish to discuss such matters, members of the public shall be required to leave the meeting room during such discussion. Any records of the Board's discussion of such matters, including recordings or minutes, shall be maintained as confidential and exempt records in accordance with Florida law.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 189.069(2)(a)16, 190.006, 190.007, 190.008, 286.0105, 286.011, 286.0113, 286.0114, Fla. Stat.

Rule 1.4 Internal Controls to Prevent Fraud, Waste and Abuse

- (1) Internal Controls. The District shall establish and maintain internal controls designed to:
- (a) Prevent and detect “fraud,” “waste” and “abuse” as those terms are defined in section 11.45(1), Florida Statutes; and
 - (b) Promote and encourage compliance with applicable laws, rules contracts, grant agreements, and best practices; and
 - (c) Support economical and efficient operations; and
 - (d) Ensure reliability of financial records and reports; and
 - (e) Safeguard assets.
- (2) Adoption. The internal controls to prevent fraud, waste and abuse shall be adopted and amended by the District in the same manner as District policies.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.
Law Implemented: § 218.33(3), Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

- (1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A “rule” is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District (“Rule”). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 190 of the Florida Statutes. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.
- (2) Notice of Rule Development.
 - (a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.
 - (b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.
- (3) Notice of Proceedings and Proposed Rules.
 - (a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District’s statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing by submitting a written request within twenty-one (21) days after the date

of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

- (b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.
 - (c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing.
- (4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.
- (5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District or has a substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.
- (6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:
 - (a) The text of the proposed rule, or any amendment or repeal of any existing rules;

- (b) A detailed written statement of the facts and circumstances justifying the proposed rule;
 - (c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and
 - (d) The published notice.
- (7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.
- (8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.
- (9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.
- (10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:
 - (a) The texts of the proposed rule and the adopted rule;
 - (b) All notices given for a proposed rule;

- (c) Any statement of estimated regulatory costs for the rule;
- (d) A written summary of hearings, if any, on the proposed rule;
- (e) All written comments received by the District and responses to those written comments; and
- (f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

- (a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.
- (b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.
- (c) The petition shall be filed with the District. Within 10 days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.
- (d) Within 30 days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.
- (e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:
 - (i) Administer oaths and affirmations;
 - (ii) Rule upon offers of proof and receive relevant evidence;

- (iii) Regulate the course of the hearing, including any pre-hearing matters;
 - (iv) Enter orders; and
 - (v) Make or receive offers of settlement, stipulation, and adjustment.
- (f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.
- (12) Variances and Waivers. A “variance” means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A “waiver” means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:
 - (a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.
 - (b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District’s Rule. Each petition shall specify:
 - (i) The rule from which a variance or waiver is requested;
 - (ii) The type of action requested;
 - (iii) The specific facts that would justify a waiver or variance for the petitioner; and
 - (iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.
 - (c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District,

the District shall proceed, at the petitioner's written request, to process the petition.

- (d) The Board shall grant or deny a petition for variance or waiver and shall announce such disposition at a publicly held meeting of the Board, within ninety (90) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

- (13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: §§ 190.011(5), 190.011(15), 190.035, Fla. Stat.

Law Implemented: §§ 190.011(5), 190.035(2), Fla. Stat.

Rule 3.0 Competitive Purchase.

- (1) Purpose and Scope. In order to comply with Sections 190.033(1) through (3), 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.
- (2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.
- (3) Definitions.
 - (a) “Competitive Solicitation” means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.
 - (b) “Continuing Contract” means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed two million dollars (\$2,000,000), for a study activity when the fee for such Professional Services to the District does not exceed two hundred thousand dollars (\$200,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.
 - (c) “Contractual Service” means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.
 - (d) “Design-Build Contract” means a single contract with a Design-Build Firm for the design and construction of a public construction project.

- (e) “Design-Build Firm” means a partnership, corporation or other legal entity that:
 - (i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
 - (ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.
- (f) “Design Criteria Package” means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District’s Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.
- (g) “Design Criteria Professional” means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.
- (h) “Emergency Purchase” means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where

the time to competitively award the project will jeopardize the funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

- (i) “Invitation to Bid” is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.
- (j) “Invitation to Negotiate” means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.
- (k) “Negotiate” means to conduct legitimate, arm’s length discussions and conferences to reach an agreement on a term or price.
- (l) “Professional Services” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.
- (m) “Proposal (or Reply or Response) Most Advantageous to the District” means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:
 - (i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;
 - (ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and
 - (iii) For a cost to the District deemed by the Board to be reasonable.
- (n) “Purchase” means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.
- (o) “Request for Proposals” or “RFP” is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated and

requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.

- (p) “Responsive and Responsible Bidder” means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. “Responsive and Responsible Vendor” means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:
 - (i) The ability and adequacy of the professional personnel employed by the entity/individual;
 - (ii) The past performance of the entity/individual for the District and in other professional employment;
 - (iii) The willingness of the entity/individual to meet time and budget requirements;
 - (iv) The geographic location of the entity’s/individual’s headquarters or office in relation to the project;
 - (v) The recent, current, and projected workloads of the entity/individual;
 - (vi) The volume of work previously awarded to the entity/individual;
 - (vii) Whether the cost components of the bid or proposal are appropriately balanced; and
 - (viii) Whether the entity/individual is a certified minority business enterprise.
- (q) “Responsive Bid,” “Responsive Proposal,” “Responsive Reply,” and “Responsive Response” all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the

Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 190.033, 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under the Consultants' Competitive Negotiations Act.

- (1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, “Project” means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.
- (2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm’s qualification submittal:
 - (a) Hold all required applicable state professional licenses in good standing;
 - (b) Hold all required applicable federal licenses in good standing, if any;
 - (c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and
 - (d) Meet any qualification requirements set forth in the District’s Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

- (3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. The District shall make reasonable efforts to provide copies of any notices to such consultants, but the failure to do so shall not give such consultants any bid protest or other rights or otherwise disqualify any otherwise valid procurement process. The Board has the right to reject any and all

qualifications, and such reservation shall be included in the published notice. Consultants not receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

- (a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:
 - (i) The ability and adequacy of the professional personnel employed by each consultant;
 - (ii) Whether a consultant is a certified minority business enterprise;
 - (iii) Each consultant's past performance;
 - (iv) The willingness of each consultant to meet time and budget requirements;
 - (v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;
 - (vi) The recent, current, and projected workloads of each consultant; and
 - (vii) The volume of work previously awarded to each consultant by the District.
- (b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) Responsive qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.
- (c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.
- (d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all consultants

by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

- (a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.
- (b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."
- (c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.
- (d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

(6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.

- (7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.
- (8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 190.011(3), 190.033, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts. For audits required under Chapter 190 of the Florida Statutes but not meeting the thresholds of Chapter 218 of the Florida Statutes, the District need not follow these procedures but may proceed with the selection of a firm or individual to provide Auditing Services and for the negotiation of such contracts in the manner the Board determines is in the best interests of the District.

(1) Definitions.

- (a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.
- (b) "Committee" means the auditor selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Auditor Selection Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an auditor selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee shall include at least three individuals, at least one of which must also be a member of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board. The Chairperson of the Committee must be a member of the Board. An employee, a chief executive officer, or a chief financial officer of the District may not serve as a member of the Committee; provided however such individual may serve the Committee in an advisory capacity.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

- (a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:

- (i) Hold all required applicable state professional licenses in good standing;
- (ii) Hold all required applicable federal licenses in good standing, if any;
- (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation; and
- (iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

- (b) **Evaluation Criteria.** The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:
 - (i) Ability of personnel;
 - (ii) Experience;
 - (iii) Ability to furnish the required services; and
 - (iv) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

- (4) **Public Announcement.** After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.
- (5) **Request for Proposals.** The Committee shall provide interested firms with a Request for Proposals (“RFP”). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee determines

is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

- (6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.
- (7) Board Selection of Auditor.
 - (a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.
 - (b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm or document in its public records the reason for not selecting the highest-ranked qualified firm.
 - (c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

- (d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.
- (8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:
 - (a) A provision specifying the services to be provided and fees or other compensation for such services;
 - (b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;
 - (c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than June 30 of the fiscal year that follows the fiscal year for which the audit is being conducted;
 - (d) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed. The maximum contract period including renewals shall be five (5) years. A renewal may be done without the use of the auditor selection procedures provided in this Rule but must be in writing.
 - (e) Provisions required by law that require the auditor to comply with public records laws.
- (9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.
Law Implemented: §§ 119.0701, 218.33, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

- (1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.
- (2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:
 - (a) The Board shall cause to be prepared a Notice of Invitation to Bid.
 - (b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.
 - (c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. The District shall make reasonable efforts to provide copies of any notices to such persons, but the failure to do so shall not give such consultants any bid protest or other rights or otherwise disqualify any otherwise valid procurement process.
 - (d) Bids shall be opened at the time and place noted in the Invitation to Bid.
 - (e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.
 - (f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.
 - (g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase insurance

shall be awarded to that company whose response to the Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

- (h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

- (1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.
- (2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:
 - (a) The Board shall cause to be prepared a Request for Qualifications.
 - (b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.
 - (c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars (\$250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars (\$250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars (\$500,000).
 - (d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.
 - (e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

- (f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;
 - (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and
 - (iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

- (g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.
- (h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.
- (i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.
- (j) Notice of intent to pre-qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, electronic mail, hand delivery, facsimile, or overnight delivery service. The notice

shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

(3) Suspension, Revocation, or Denial of Qualification

(a) The District, for good cause, may deny, suspend, or revoke a prequalified vendor's pre-qualified status. A suspension, revocation, or denial for good cause shall prohibit the vendor from bidding on any District construction contract for which qualification is required, shall constitute a determination of non-responsibility to bid on any other District construction or maintenance contract, and shall prohibit the vendor from acting as a material supplier or subcontractor on any District contract or project during the period of suspension, revocation, or denial. Good cause shall include the following:

- i. One of the circumstances specified under Section 337.16(2), Fla. Stat., has occurred.
- ii. Affiliated contractors submitted more than one proposal for the same work. In this event the pre-qualified status of all of the affiliated bidders will be revoked, suspended, or denied. All bids of affiliated bidders will be rejected.
- iii. The vendor made or submitted false, deceptive, or fraudulent statements, certifications, or materials in any claim for payment or any information required by any District contract.
- iv. The vendor or its affiliate defaulted on any contract or a contract surety assumed control of financial responsibility for any contract of the vendor.
- v. The vendor's qualification to bid is suspended, revoked, or denied by any other public or semi-public entity, or the vendor has been the subject of a civil enforcement proceeding or settlement involving a public or semi-public entity.
- vi. The vendor failed to comply with contract or warranty requirements or failed to follow District direction in the performance of a contract.
- vii. The vendor failed to timely furnish all contract documents required by the contract specifications, special provisions, or by any state or federal statutes or regulations. If the vendor fails to furnish any of the subject contract documents by the expiration of the period of suspension,

revocation, or denial set forth above, the vendor's pre-qualified status shall remain suspended, revoked, or denied until the documents are furnished.

- viii. The vendor failed to notify the District within 10 days of the vendor, or any of its affiliates, being declared in default or otherwise not completing work on a contract or being suspended from qualification to bid or denied qualification to bid by any other public or semi-public agency.
 - ix. The vendor did not pay its subcontractors or suppliers in a timely manner or in compliance with contract documents.
 - x. The vendor has demonstrated instances of poor or unsatisfactory performance, deficient management resulting in project delay, poor quality workmanship, a history of payment of liquidated damages, untimely completion of projects, uncooperative attitude, contract litigation, inflated claims or defaults.
 - xi. An affiliate of the vendor has previously been determined by the District to be non-responsible, and the specified period of suspension, revocation, denial, or non-responsibility remains in effect.
 - xii. The vendor or affiliate(s) has been convicted of a contract crime.
 - 1. The term "contract crime" means any violation of state or federal antitrust laws with respect to a public contract or any violation of any state or federal law involving fraud, bribery, collusion, conspiracy, or material misrepresentation with respect to a public contract.
 - 2. The term "convicted" or "conviction" means a finding of guilt or a conviction of a contract crime, with or without an adjudication of guilt, in any federal or state trial court of record as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
- (b) A denial, suspension, or revocation shall prohibit the vendor from being a subcontractor on District work during the period of denial, suspension, or revocation, except when a prime contractor's bid has used prices of a subcontractor who becomes disqualified after the bid, but before the request for authorization to sublet is presented.
- (c) The District shall inform the vendor in writing of its intent to deny, suspend, or revoke its pre-qualified status and inform the vendor of its right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days after the receipt of the notice of intent, the

hearing shall be held within 30 days after receipt by the District of the request for the hearing. The decision shall be issued within 15 days after the hearing.

- (d) Such suspension or revocation shall not affect the vendor's obligations under any preexisting contract.
- (e) In the case of contract crimes, the vendor's pre-qualified status under this Rule shall be revoked indefinitely. For all violations of Rule 3.4(3)(a) other than for the vendor's conviction for contract crimes, the revocation, denial, or suspension of a vendor's pre-qualified status under this Rule shall be for a specific period of time based on the seriousness of the deficiency.

Examples of factors affecting the seriousness of a deficiency are:

- i. Impacts on project schedule, cost, or quality of work;
- ii. Unsafe conditions allowed to exist;
- iii. Complaints from the public;
- iv. Delay or interference with the bidding process;
- v. The potential for repetition;
- vi. Integrity of the public contracting process;
- vii. Effect on the health, safety, and welfare of the public.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.
Law Implemented: §§ 190.033, 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

- (1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 190 of the Florida Statutes, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.
- (2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:
 - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
 - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars (\$500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.
 - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

- (d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.
- (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;
 - (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and
 - (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects including but not limited to, reemployment assistance, safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

- (f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids,

proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

- (g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.
- (h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.
- (i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.
- (j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.
- (k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may

proceed with the procurement of construction services, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the construction services without further competitive selection processes.

- (3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.
- (4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
- (5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.
- (6) Exceptions. This Rule is inapplicable when:
 - (a) The project is undertaken as repair or maintenance of an existing public facility;
 - (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;
 - (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contract; or
 - (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 189.053, 190.033, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

- (1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best

interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:

(2) Procedure.

- (a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.
- (b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.
- (c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications-based selection process pursuant to Rule 3.1.
 - (i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.
 - (ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:
 - 1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board,

for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars (\$500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.

2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:
 - a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;
 - b. Hold all required applicable federal licenses in good standing, if any;
 - c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;
 - d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects including but not limited to reemployment assistance, safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to

submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.
5. The Board shall have the right to reject all proposals if the proposals are too high, or rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.
6. If less than three (3) Responsive Proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no Responsive Proposals are received, the District may proceed with the procurement of design-build services in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the design-build services without further competitive selection processes.
7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the second most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the third most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.
 9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.
 10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package and shall provide the Board with a report of the same.
- (3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
 - (4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.
 - (5) Exceptions. This Rule is inapplicable when:

- (a) The project is undertaken as repair or maintenance of an existing public facility;
- (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;
- (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or
- (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 189.053, 190.033, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

- (1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.
- (2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of \$200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.
- (3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding \$200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

- (1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of “goods, supplies, and materials” do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.
- (2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:
 - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
 - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.
 - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
 - (d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.
 - (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;

- (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and
- (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

- (f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.
- (g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of

Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsive and Responsible Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

- (h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.
 - (i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.
 - (j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.
 - (k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may proceed with the procurement of goods, supplies, and materials, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the goods, supplies, and materials without further competitive selection processes.
- (3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has

undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.

- (4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.
- (5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a maximum period of five (5) years.
- (6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 189.053, 190.033, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

- (1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.
- (2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:
 - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
 - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.
 - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
 - (d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.
 - (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;

- (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and
- (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

- (f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.
- (g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.
- (h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

- (i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.
 - (j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.
 - (k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may proceed with the procurement of maintenance services, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the maintenance services without further competitive selection processes.
- (3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.
 - (4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a maximum period of five (5) years.
 - (5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
 - (6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: §§ 190.011(5), 190.011(15), 190.033, Fla. Stat.
Law Implemented: §§ 119.0701, 190.033, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

- (1) Exemption from Competitive Purchase. Pursuant to Section 190.033(3) of the Florida Statutes, Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.
- (2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 190.011(3), 190.033, Fla. Stat.

Rule 3.11 Protests with Respect to Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

- (a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.
- (b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.
- (c) If the requirement for the posting of a protest bond and the amount of the protest bond, which may be expressed by a percentage of the contract to be awarded or a set amount, is disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3,

3.4, 3.5, 3.6, 3.8, or 3.9, any person who files a notice of protest must post the protest bond. The amount of the protest bond shall be determined by District staff after consultation with the Board and within the limits, if any, imposed by Florida law. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

- (d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.
- (2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.
- (3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.
- (4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:
 - (a) Administer oaths and affirmations;
 - (b) Rule upon offers of proof and receive relevant evidence;
 - (c) Regulate the course of the hearing, including any pre-hearing matters;
 - (d) Enter orders; and

- (e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

- (5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.
- (6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect, or an irregularity in the competitive solicitation process, the Bids, Proposals, Replies, and Responses are too high, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.
- (7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: § 190.033, Fla. Stat.

Rule 4.0 Effective Date.

These Rules shall be effective April 11, 2024, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 190.011(5), 190.011(15), Fla. Stat.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

7A

LOCALiQ

FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Daphne Gillyard
Greenbriar Community Development District
2300 Glades RD # 410W
Boca Raton FL 33431-8556

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of the St Augustine Record, published in St Johns County, Florida; that the attached copy of advertisement, being a Public Notices, was published on the publicly accessible website of St Johns County, Florida, or in a newspaper by print in the issues of, on:

03/22/2024, 03/29/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 03/29/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$193.12

Order No: 9922216

Customer No: 1344018

PO #:

of Copies:

1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF THE FISCAL YEAR 2023/2024 BUDGET; AND NOTICE OF REGULAR BOARD OF SUPERVISORS' MEETING.

The Board of Supervisors ("Board") of the Greenbriar Community Development District ("District") will hold a public hearing on April 11, 2024 at 1:00 p.m., at the offices of Regional Development, 50 Silver Forest Drive, Suite 203, St. Augustine, Florida 32092, for the purpose of hearing comments and objections on the adoption of the proposed budget ("Proposed Budgets") of the District for the remainder of the fiscal year ending September 30, 2024 ("Fiscal Year 2023/2024"). A regular board meeting of the District will also be held at that time where the Board may consider any other business that may properly come before it. A copy of the agenda and Proposed Budget may be obtained at the offices of the District Manager, 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431, (561) 571-0010 ("District Manager's Office"), during normal business hours.

The public hearing and meeting are open to the public and will be conducted in accordance with the provisions of Florida law. The public hearing and meeting may be continued to a date, time, and place to be specified on the record at the meeting. There may be occasions when Board Supervisors or District Staff may participate by speaker telephone.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the District Manager's Office at least forty-eight (48) hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service by dialing 7-1-1, or 1-800-955-8771 (TTY) / 1-800-955-8770 (Voice), for aid in contacting the District Manager's Office.

Each person who decides to appeal any decision made by the Board with respect to any matter considered at the public hearing or meeting is advised that person will need a record of proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.

Craig Wrathell
District Manager
Pub: 3/22, 3/29/24; #9922216

KAITLYN FELTY
Notary Public
State of Wisconsin

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

7B

RESOLUTION 2024-35

THE ANNUAL APPROPRIATION RESOLUTION OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT") RELATING TO THE ANNUAL APPROPRIATIONS AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024; AUTHORIZING BUDGET AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the District Manager has submitted to the Board of Supervisors ("**Board**") of the Greenbriar Community Development District ("**District**") a proposed budget ("**Proposed Budget**") for the fiscal year beginning October 1, 2023 and ending September 30, 2024 ("**Fiscal Year 2023/2024**") along with an explanatory and complete financial plan for each fund of the District, pursuant to the provisions of Section 190.008(2)(a), *Florida Statutes*; and

WHEREAS, at least sixty (60) days prior to the adoption of the Proposed Budget, the District filed a copy of the Proposed Budget with the local governing authorities having jurisdiction over the area included in the District pursuant to the provisions of Section 190.008(2)(b), *Florida Statutes*; and

WHEREAS, the Board set a public hearing thereon and caused notice of such public hearing to be given by publication pursuant to Section 190.008(2)(a), *Florida Statutes*; and

WHEREAS, the District Manager posted the Proposed Budget on the District's website at least two days before the public hearing; and

WHEREAS, Section 190.008(2)(a), *Florida Statutes*, requires that the Board, by passage of the Annual Appropriation Resolution, shall adopt a budget for the ensuing fiscal year and appropriate such sums of money as the Board deems necessary to defray all expenditures of the District during the ensuing fiscal year; and

WHEREAS, the District Manager has prepared a Proposed Budget, whereby the budget shall project the cash receipts and disbursements anticipated during a given time period, including reserves for contingencies for emergency or other unanticipated expenditures during the fiscal year.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. BUDGET

- a. The Board has reviewed the Proposed Budget, a copy of which is on file with the office of the District Manager and at the District's Local Records Office, and hereby approves certain amendments thereto, as shown in Section 2 below.

- b. The Proposed Budget, attached hereto as **Exhibit A**, as amended by the Board, is hereby adopted in accordance with the provisions of Section 190.008(2)(a), *Florida Statutes* ("**Adopted Budget**"), and incorporated herein by reference; provided, however, that the comparative figures contained in the Adopted Budget may be subsequently revised as deemed necessary by the District Manager to reflect actual revenues and expenditures.
- c. The Adopted Budget, as amended, shall be maintained in the office of the District Manager and at the District's Local Records Office and identified as "The Budget for the Greenbriar Community Development District for the Fiscal Year Ending September 30, 2024."
- d. The Adopted Budget shall be posted by the District Manager on the District's official website within thirty (30) days after adoption and shall remain on the website for at least 2 years.

SECTION 2. APPROPRIATIONS

There is hereby appropriated out of the revenues of the District, for Fiscal Year 2023/2024, the sum of \$68,682 to be raised by the levy of assessments and/or otherwise, which sum is deemed by the Board to be necessary to defray all expenditures of the District during said budget year, to be divided and appropriated in the following fashion:

TOTAL GENERAL FUND	\$68,682
TOTAL ALL FUNDS	\$68,682

SECTION 3. BUDGET AMENDMENTS

Pursuant to Section 189.016, *Florida Statutes*, the District at any time within Fiscal Year 2023/2024, or within 60 days following the end of the Fiscal Year 2023/2024, may amend its Adopted Budget for that fiscal year as follows:

- a. A line-item appropriation for expenditures within a fund may be decreased or increased by motion of the Board recorded in the minutes, and approving the expenditure, if the total appropriations of the fund do not increase.
- b. The District Manager or Treasurer may approve an expenditure that would increase or decrease a line-item appropriation for expenditures within a fund if the total appropriations of the fund do not increase and if either (i) the aggregate change in the original appropriation item does not exceed the greater of \$15,000 or 15% of the original appropriation, or (ii) such expenditure is authorized by separate disbursement or spending resolution.

- c. Any other budget amendments shall be adopted by resolution and consistent with Florida law.

The District Manager or Treasurer must ensure that any amendments to the budget under paragraph c. above are posted on the District's website within 5 days after adoption and remain on the website for at least 2 years.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS 11TH DAY OF APRIL, 2024.

ATTEST:

**GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

By: _____

Its: _____

Exhibit A: Fiscal Year 2023/2024 Budget

Exhibit A

Fiscal Year 2023/2024 Budget

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
PROPOSED BUDGET
FISCAL YEAR 2024**

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
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**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
GENERAL FUND BUDGET
FISCAL YEAR 2024**

	Proposed Budget
REVENUES	
Landowner contribution	68,682
Total revenues	<u>68,682</u>
EXPENDITURES	
Professional & administrative	
Supervisors	-
Management/accounting/recording**	24,000
Legal	25,000
Engineering	2,000
Audit	-
Arbitrage rebate calculation*	-
Dissemination agent*	667
Trustee*	-
Telephone	200
Postage	500
Printing & binding	500
Legal advertising	7,500
Annual special district fee	175
Insurance	5,500
Contingencies/bank charges	750
Website hosting & maintenance	1,680
Website ADA compliance	210
Total expenditures	<u>68,682</u>
Excess/(deficiency) of revenues over/(under) expenditures	-
Fund balance - beginning (unaudited)	-
Fund balance - ending (projected)	-
Unassigned	-
Fund balance - ending	<u><u>\$ -</u></u>

*These items will be realized when bonds are issued.

**WHA will charge a reduced management fee of \$2,000 per month until bonds are issued.

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
DEFINITIONS OF GENERAL FUND EXPENDITURES**

EXPENDITURES

Professional & administrative

Supervisors	\$ -
Statutorily set at \$200 for each meeting of the Board of Supervisors not to exceed \$4,800 for each fiscal year.	
Management/accounting/recording**	24,000
Wrathell, Hunt and Associates, LLC (WHA), specializes in managing community development districts by combining the knowledge, skills and experience of a team of professionals to ensure compliance with all of the District's governmental requirements. WHA develops financing programs, administers the issuance of tax exempt bond financings, operates and maintains the assets of the community.	
Legal	25,000
General counsel and legal representation, which includes issues relating to public finance, public bidding, rulemaking, open meetings, public records, real property dedications, conveyances and contracts.	
Engineering	2,000
The District's Engineer will provide construction and consulting services, to assist the District in crafting sustainable solutions to address the long term interests of the community while recognizing the needs of government, the environment and maintenance of the District's facilities.	
Audit	-
Statutorily required for the District to undertake an independent examination of its books, records and accounting procedures.	
Arbitrage rebate calculation*	-
To ensure the District's compliance with all tax regulations, annual computations are necessary to calculate the arbitrage rebate liability.	
Dissemination agent*	667
The District must annually disseminate financial information in order to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934. Wrathell, Hunt & Associates serves as dissemination agent.	
Trustee*	-
Telephone	200
Postage	500
Telephone and fax machine.	
Printing & binding	500
Mailing of agenda packages, overnight deliveries, correspondence, etc.	
Legal advertising	7,500
Letterhead, envelopes, copies, agenda packages	
Annual special district fee	175
The District advertises for monthly meetings, special meetings, public hearings, public bids, etc.	
Insurance	5,500
Annual fee paid to the Florida Department of Economic Opportunity.	
Contingencies/bank charges	750
Bank charges and other miscellaneous expenses incurred during the year and automated AP routing etc.	
Website hosting & maintenance	1,680
Website ADA compliance	210
Total expenditures	<u><u>\$ 68,682</u></u>

*These items will be realized when bonds are issued.

**WHA will charge a reduced management fee of \$2,000 per month until bonds are issued.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

8

RESOLUTION 2024-36

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT APPROVING PROPOSED BUDGET(S) FOR FISCAL YEAR 2024/2025 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW; ADDRESSING TRANSMITTAL, POSTING AND PUBLICATION REQUIREMENTS; ADDRESSING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the District Manager has heretofore prepared and submitted to the Board of Supervisors ("**Board**") of the Greenbriar Community Development District ("**District**") prior to June 15, 2024, proposed budget(s) ("**Proposed Budget**") for the fiscal year beginning October 1, 2024, and ending September 30, 2025 ("**Fiscal Year 2024/2025**"); and

WHEREAS, the Board has considered the Proposed Budget and desires to set the required public hearing thereon.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT:

1. **PROPOSED BUDGET APPROVED.** The Proposed Budget prepared by the District Manager for Fiscal Year 2024/2025 attached hereto as **Exhibit A** is hereby approved as the basis for conducting a public hearing to adopt said Proposed Budget.

2. **SETTING A PUBLIC HEARING.** A public hearing on said approved Proposed Budget is hereby declared and set for the following date, hour and location:

DATE: _____, 2024

HOUR: ____:____ .m.

LOCATION: Offices of Regional Development
50 Silver Forest Drive, Suite 203
St. Augustine, Florida 32092

3. **TRANSMITTAL OF PROPOSED BUDGET TO LOCAL GENERAL-PURPOSE GOVERNMENT(S).** The District Manager is hereby directed to submit a copy of the Proposed Budget to the local general-purpose governments at least 60 days prior to the hearing set above.

4. **POSTING OF PROPOSED BUDGET.** In accordance with Section 189.016, *Florida Statutes*, the District's Secretary is further directed to post the approved Proposed Budget on the District's website at least two days before the budget hearing date as set forth in Section 2 and shall remain on the website for at least 45 days.

5. **PUBLICATION OF NOTICE.** Notice of this public hearing shall be published in the manner prescribed in Florida law.

6. **SEVERABILITY.** The invalidity or unenforceability of any one or more provisions of this Resolution shall not affect the validity or enforceability of the remaining portions of this Resolution, or any part thereof.

7. **EFFECTIVE DATE.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS 11TH DAY OF APRIL, 2024.

ATTEST:

**GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

Exhibit A: Fiscal Year 2024/2025 Proposed Budget

Exhibit A

Fiscal Year 2024/2025 Proposed Budget

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
PROPOSED BUDGET
FISCAL YEAR 2025**

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
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**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
GENERAL FUND BUDGET
FISCAL YEAR 2025**

	Proposed Budget
REVENUES	
Landowner contribution	98,790
Total revenues	<u>98,790</u>
EXPENDITURES	
Professional & administrative	
Supervisors	-
Management/accounting/recording**	48,000
Legal	25,000
Engineering	2,000
Audit	5,500
Arbitrage rebate calculation*	500
Dissemination agent*	2,000
Trustee*	5,500
Telephone	200
Postage	500
Printing & binding	500
Legal advertising	1,750
Annual special district fee	175
Insurance	5,500
Contingencies/bank charges	750
Tax Collector	-
Website hosting & maintenance	705
Website ADA compliance	210
Total expenditures	<u>98,790</u>
Excess/(deficiency) of revenues over/(under) expenditures	-
Fund balance - beginning (unaudited)	-
Fund balance - ending (projected)	
Assigned	
Working capital	-
Unassigned	-
Fund balance - ending	<u><u>\$ -</u></u>

*These items will be realized when bonds are issued.

**WHA will charge a reduced management fee of \$2,000 per month until bonds are issued.

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
DEFINITIONS OF GENERAL FUND EXPENDITURES**

EXPENDITURES

Professional & administrative

Supervisors	\$ -
Statutorily set at \$200 for each meeting of the Board of Supervisors not to exceed \$4,800 for each fiscal year.	
Management/accounting/recording**	48,000
Wrathell, Hunt and Associates, LLC (WHA), specializes in managing community development districts by combining the knowledge, skills and experience of a team of professionals to ensure compliance with all of the District's governmental requirements. WHA develops financing programs, administers the issuance of tax exempt bond financings, operates and maintains the assets of the community.	
Legal	25,000
General counsel and legal representation, which includes issues relating to public finance, public bidding, rulemaking, open meetings, public records, real property dedications, conveyances and contracts.	
Engineering	2,000
The District's Engineer will provide construction and consulting services, to assist the District in crafting sustainable solutions to address the long term interests of the community while recognizing the needs of government, the environment and maintenance of the District's facilities.	
Audit	5,500
Statutorily required for the District to undertake an independent examination of its books, records and accounting procedures.	
Arbitrage rebate calculation*	500
To ensure the District's compliance with all tax regulations, annual computations are necessary to calculate the arbitrage rebate liability.	
Dissemination agent*	2,000
The District must annually disseminate financial information in order to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934. Wrathell, Hunt & Associates serves as dissemination agent.	
Trustee*	5,500
Telephone	200
Postage	500
Telephone and fax machine.	
Printing & binding	500
Mailing of agenda packages, overnight deliveries, correspondence, etc.	
Legal advertising	1,750
Letterhead, envelopes, copies, agenda packages	
Annual special district fee	175
The District advertises for monthly meetings, special meetings, public hearings, public bids, etc.	
Insurance	5,500
Annual fee paid to the Florida Department of Economic Opportunity.	
Contingencies/bank charges	750
Bank charges and other miscellaneous expenses incurred during the year and automated AP routing etc.	
Website hosting & maintenance	705
Website ADA compliance	210
Total expenditures	<u><u>\$ 98,790</u></u>

*These items will be realized when bonds are issued.

**WHA will charge a reduced management fee of \$2,000 per month until bonds are issued.

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

9

RESOLUTION 2024-15

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT DESIGNATING DATES, TIMES AND LOCATIONS FOR REGULAR MEETINGS OF THE BOARD OF SUPERVISORS OF THE DISTRICT FOR FISCAL YEAR 2023/2024 AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Greenbriar Community Development District (“**District**”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; and

WHEREAS, the District is required by Section 189.015, *Florida Statutes*, to file quarterly, semi-annually, or annually a schedule (including date, time, and location) of its regular meetings with local governing authorities; and

WHEREAS, further, in accordance with the above-referenced statute, the District shall also publish quarterly, semi-annually, or annually the District’s regular meeting schedule in a newspaper of general paid circulation in the county in which the District is located.

WHEREAS, the Board desires to adopt the Fiscal Year 2023/2024 meeting schedule attached as **Exhibit A**.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT:

1. **ADOPTING FISCAL YEAR 2023/2024 ANNUAL MEETING SCHEDULE.** The Fiscal Year 2023/2024 annual meeting schedule attached hereto and incorporated by reference herein as **Exhibit A** is hereby approved and shall be published in accordance with the requirements of Florida law and also provided to applicable governing authorities.

2. **EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

ATTEST:

**GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

EXHIBIT “A”

GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT		
BOARD OF SUPERVISORS FISCAL YEAR 2023/2024 MEETING SCHEDULE		
LOCATION		
<i>Regional Development, 50 Silver Forest Drive, Suite 203, St. Augustine, Florida 32092</i>		
DATE	POTENTIAL DISCUSSION/FOCUS	TIME
May __, 2024	Regular Meeting	__:__ AM/PM
June __, 2024	Regular Meeting	__:__ AM/PM
July __, 2024	Regular Meeting	__:__ AM/PM
August __, 2024	Regular Meeting	__:__ AM/PM
September __, 2024	Regular Meeting	__:__ AM/PM

GREENBRIAR

COMMUNITY DEVELOPMENT DISTRICT

10

RESOLUTION 2024-37

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT DESIGNATING DATES, TIMES AND LOCATIONS FOR REGULAR MEETINGS OF THE BOARD OF SUPERVISORS OF THE DISTRICT FOR FISCAL YEAR 2024/2025 AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Greenbriar Community Development District (“**District**”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; and

WHEREAS, the District is required by Section 189.015, *Florida Statutes*, to file quarterly, semi-annually, or annually a schedule (including date, time, and location) of its regular meetings with local governing authorities; and

WHEREAS, further, in accordance with the above-referenced statute, the District shall also publish quarterly, semi-annually, or annually the District’s regular meeting schedule in a newspaper of general paid circulation in the county in which the District is located.

WHEREAS, the Board desires to adopt the Fiscal Year 2024/2025 meeting schedule attached as **Exhibit A**.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT:

1. **ADOPTING FISCAL YEAR 2024/2025 ANNUAL MEETING SCHEDULE.** The Fiscal Year 2024/2025 annual meeting schedule attached hereto and incorporated by reference herein as **Exhibit A** is hereby approved and shall be published in accordance with the requirements of Florida law and also provided to applicable governing authorities.

2. **EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

ATTEST:

**GREENBRIAR COMMUNITY DEVELOPMENT
DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

EXHIBIT "A"

GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT		
BOARD OF SUPERVISORS FISCAL YEAR 2024/2025 MEETING SCHEDULE		
LOCATION		
<i>Regional Development, 50 Silver Forest Drive, Suite 203, St. Augustine, Florida 32092</i>		
DATE	POTENTIAL DISCUSSION/FOCUS	TIME
October __, 2024	Regular Meeting	__:__ AM/PM
November __, 2024	Regular Meeting	__:__ AM/PM
December __, 2024	Regular Meeting	__:__ AM/PM
January __, 2025	Regular Meeting	__:__ AM/PM
February __, 2025	Regular Meeting	__:__ AM/PM
March __, 2025	Regular Meeting	__:__ AM/PM
April __, 2025	Regular Meeting	__:__ AM/PM
May __, 2025	Regular Meeting	__:__ AM/PM
June __, 2025	Regular Meeting	__:__ AM/PM
July __, 2025	Regular Meeting	__:__ AM/PM
August __, 2025	Regular Meeting	__:__ AM/PM
September __, 2025	Regular Meeting	__:__ AM/PM

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

UNAUDITED
FINANCIAL
STATEMENTS

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
FINANCIAL STATEMENTS
UNAUDITED
FEBRUARY 29, 2024**

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
BALANCE SHEET
GOVERNMENTAL FUNDS
FEBRUARY 29, 2024**

	General Fund	Total Governmental Funds
ASSETS		
Due from Landowner	\$ 15,558	\$ 15,558
Total assets	<u>15,558</u>	<u>15,558</u>
LIABILITIES AND FUND BALANCES		
Liabilities:		
Accounts payable	\$ 2,058	\$ 2,058
Landowner advance	13,500	13,500
Total liabilities	<u>15,558</u>	<u>15,558</u>
DEFERRED INFLOWS OF RESOURCES		
Deferred receipts	2,058	2,058
Total deferred inflows of resources	<u>2,058</u>	<u>2,058</u>
Fund balances:		
Unassigned	(2,058)	(2,058)
Total fund balances	<u>(2,058)</u>	<u>(2,058)</u>
Total liabilities, deferred inflows of resources and fund balances	<u>\$ 15,558</u>	<u>\$ 15,558</u>

**GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
FOR THE PERIOD ENDED FEBRUARY 29, 2024**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Landowner contribution	\$ -	\$ -	\$ 68,682	0%
Total revenues	-	-	68,682	0%
EXPENDITURES				
Professional & administrative				
Management/accounting/recording	2,000	2,000	24,000	8%
Legal	-	-	25,000	0%
Engineering	-	-	2,000	0%
Dissemination agent*	-	-	667	0%
Telephone	16	16	200	8%
Postage	-	-	500	0%
Printing & binding	42	42	500	8%
Legal advertising	-	-	7,500	0%
Annual special district fee	-	-	175	0%
Insurance	-	-	5,500	0%
Contingencies/bank charges	-	-	750	0%
Website hosting & maintenance	-	-	1,680	0%
Website ADA compliance	-	-	210	0%
Total expenditures	2,058	2,058	68,682	3%
Excess/(deficiency) of revenues over/(under) expenditures	(2,058)	(2,058)	-	
Fund balances - beginning	-	-	-	
Fund balances - ending	\$ (2,058)	\$ (2,058)	\$ -	

GREENBRIAR
COMMUNITY DEVELOPMENT DISTRICT

MINUTES

DRAFT

**MINUTES OF MEETING
GREENBRIAR COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Greenbriar Community Development District held Public Hearings and a Regular Meeting on March 12, 2024 at 11:00 a.m., at the offices of Regional Development, 50 Silver Forest Drive, Suite 203, St. Augustine, Florida 32092.

Present at the meeting were:

Justin Onorato	Assistant Secretary
Kevin Kramer	Assistant Secretary
Joshua Breakstone	Assistant Secretary

Also present:

Craig Wrathell	District Manager
Michael Eckert	District Counsel
Kate John	Kutak Rock, LLP
Peter Ma (via telephone)	District Engineer
Jason Gonzalez (via telephone)	Greenberg Traurig, P.A.
Dave D'Ambrosia	BTI Partners

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Wrathell called the meeting to order at 11:01 a.m.

Supervisors Kramer, Onorato and Joshua Breakstone were present. Supervisors Mays and Noah Breakstone were not present.

SECOND ORDER OF BUSINESS

Public Comments

No members of the public spoke.

THIRD ORDER OF BUSINESS

Public Hearing Confirming the Intent of the District to Use the Uniform Method of Levy, Collection and Enforcement of Non-Ad Valorem Assessments as Authorized and Permitted by Section 197.3632, Florida Statutes; Expressing the Need for the Levy of Non-Ad Valorem Assessments and

Setting Forth the Legal Description of the Real Property Within the District's Jurisdictional Boundaries that May or Shall Be Subject to the Levy of District Non-Ad Valorem Assessments; Providing for Severability; Providing for Conflict and Providing for an Effective Date

A. Affidavit/Proof of Publication

The affidavit of publication was included for informational purposes.

B. Consideration of Resolution 2024-30, Expressing its Intent to Utilize the Uniform Method of Levying, Collecting, and Enforcing Non-Ad Valorem Assessments Which May Be Levied by the Greenbriar Community Development District in Accordance with Section 197.3632, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date

On MOTION by Mr. Kramer and seconded by Mr. Josuha Breakstone, with all in favor, the Public Hearing was opened.

No affected property owners or members of the public spoke.

On MOTION by Mr. Kramer and seconded by Mr. Josuha Breakstone, with all in favor, the Public Hearing was closed.

Mr. Wrathell presented Resolution 2024-30 and read the title.

On MOTION by Mr. Josuha Breakstone and seconded by Mr. Kramer, with all in favor, Resolution 2024-30, Expressing its Intent to Utilize the Uniform Method of Levying, Collecting, and Enforcing Non-Ad Valorem Assessments Which May Be Levied by the Greenbriar Community Development District in Accordance with Section 197.3632, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Public Hearing to Consider the Adoption of an Assessment Roll and the Imposition of Special Assessments Relating to the Financing and Securing of Certain Public Improvements

A. Affidavit/Proof of Publication**B. Mailed Notice to Property Owner(s)**

These items were included for informational purposes.

On MOTION by Mr. Josuha Breakstone and seconded by Mr. Kramer, with all in favor, the Public Hearing was opened.

- **Hear testimony from the affected property owners as to the propriety and advisability of making the improvements and funding them with special assessments on the property**

No affected property owners or members of the public spoke.

C. Engineer's Report (for informational purposes)

Mr. Ma presented the Engineer's Report dated February 6, 2024, which includes all the CDD's potential master infrastructure improvements and neighborhood costs, including roadway, earthwork not related to lot development, stormwater system, sanitary sewer, water distribution, undergrounding of electrical conduit, reclaimed water, landscape, hardscape, amenities, on-site roadways, Greenbriar widening, county park access, wetland mitigation, contingency and professional fees. The total opinion of probable costs for the Capital Improvement Plan (CIP) is \$239,179,000.

Mr. Eckert posed and Mr. Ma responded to the following questions regarding the Engineer's Report:

Mr. Eckert: Based on your professional experience, are the cost estimates in your Engineer's Report reasonable and proper?

Mr. Ma: Yes, sir.

107 **Mr. Eckert:** Do you have any reason to believe the project cannot be carried out by the
108 District?

109 **Mr. Ma:** No reason at all.

110 Mr. Eckert stated his belief that no changes have been made to the Engineer's Report or
111 the Master Special Assessment Methodology Report since they were previously adopted via
112 Resolution.

113 **D. Master Special Assessment Methodology Report (for informational purposes)**

114 Mr. Wrathell presented the Master Special Assessment Methodology Report dated
115 February 6, 2024, reviewed the pertinent information and discussed the Development Program,
116 CIP, Financing Program, Assessment Methodology, lienability tests, True-up mechanism, special
117 and peculiar benefits to the units and the Appendix Tables and Exhibits. He noted the following:

118 ➤ The Report presents the projections for financing the CIP as described in the Master
119 Engineer's Report dated February 6, 2024.

120 ➤ The CDD consists of approximately 1,304.54 acres located in St. John's County, Florida.

121 ➤ Greenbriar Property Holdings, LLC or an affiliated entity is the anticipated Developer.

122 ➤ 1,984 residential dwelling units are anticipated.

123 ➤ The proposed financing plan provides for issuance of bonds in the approximate principal
124 amount of \$327,805,000 to finance approximately \$239,179,000 in CIP costs, as reflected in the
125 Engineer's Report.

126 ➤ No bond assessments are planned to be allocated to any private amenities within the
127 boundaries of the CDD.

128 Mr. Eckert posed and Mr. Wrathell responded to the following questions regarding the
129 Master Assessment Methodology.

130 **Mr. Eckert:** In your professional opinion, do the lands subject to the assessments
131 receive special benefits from the District's Improvement Plan?

132 **Mr. Wrathell:** Yes, sir.

133 **Mr. Eckert:** And are those benefits including but not limited to i. added use of the
134 property; ii. added enjoyment of the property; iii. likely increased marketability of the property;
135 iv. for recreation improvements, it eliminates the need for individual owners to build duplicate

136 facilities; v. increased value of the property; vi. access to the property; and vii. improved
137 aesthetics?

138 **Mr. Wrathell:** Yes.

139 **Mr. Eckert:** And in your professional opinion, are the special assessments reasonably
140 apportioned among the lands subject to the special assessments?

141 **Mr. Wrathell:** Yes.

142 **Mr. Eckert:** In your professional opinion, is it reasonable, proper and just to assess the
143 costs of the project against the lands in the District in accordance with your firm's
144 methodology, which results in the special assessments set forth on the final assessment roll?

145 **Mr. Wrathell:** Yes.

146 **Mr. Eckert:** Is it your opinion that the special benefits the lands will receive as set forth
147 in the final assessment roll will be equal to or in excess of the special assessments thereon,
148 when allocated as set forth in the Methodology?

149 **Mr. Wrathell:** Yes.

150 **Mr. Eckert:** Is it your opinion that it is in the best interests of the District that the special
151 assessments be paid and collected in accordance with the Methodology and the District's
152 assessment resolutions?

153 **Mr. Wrathell:** Yes.

154 **Mr. Eckert:** Were there any letters received by the District Manager related to the
155 assessments?

156 **Mr. Wrathell:** I am not aware of any letters.

157 **Mr. Eckert:** I would just note, for the record that, since my office is the local records
158 office, those plans and specifications have been on file in the local records office. Nobody has
159 asked to see them and I believe that they have been on file at the District office as well.

160 • **Thereafter, the governing authority shall meet as an equalizing board to hear any and**
161 **all complaints as to the special assessments on a basis of justice and right.**

162 The Board, sitting as the Equalizing Board, did not wish to make any changes.

163 **E. Consideration of Resolution 2024-31, Authorizing District Projects for Construction**
164 **and/or Acquisition of Infrastructure Improvements; Equalizing, Approving, Confirming,**

and Levying Special Assessments on Property Specially Benefited by Such Projects to Pay the Cost Thereof; Providing for the Payment And The Collection of Such Special Assessments by the Methods Provided for by Chapters 170, 190, and 197, Florida Statutes; Confirming the District's Intention to Issue Special Assessment Bonds; Making Provisions for Transfers of Real Property to Governmental Bodies And Other Exempt Entities; Providing for the Recording of an Assessment Notice; Providing for Severability, Conflicts and an Effective Date

Mr. Eckert and Mr. Wrathell discussed the specifics related to the bond payments, which are due on May 1 and November 1.

Mr. Wrathell presented Resolution 2024-31 and read the title.

On MOTION by Mr. Onorato and seconded by Mr. Joshua Breakstone, with all in favor, Resolution 2024-31, Authorizing District Projects for Construction and/or Acquisition of Infrastructure Improvements; Equalizing, Approving, Confirming, and Levying Special Assessments on Property Specially Benefited by Such Projects to Pay the Cost Thereof; Providing for the Payment And The Collection of Such Special Assessments by the Methods Provided for by Chapters 170, 190, and 197, Florida Statutes; Confirming the District's Intention to Issue Special Assessment Bonds; Making Provisions for Transfers of Real Property to Governmental Bodies And Other Exempt Entities; Providing for the Recording of an Assessment Notice; Providing for Severability, Conflicts and an Effective Date, was adopted.

On MOTION by Mr. Joshua Breakstone, and seconded by Mr. Kramer, with all in favor, the Public Hearing was closed.

FIFTH ORDER OF BUSINESS

Acceptance of the Unaudited Financial Statements as of January 31, 2024

On MOTION by Mr. Kramer, and seconded by Mr. Joshua Breakstone, with all in favor, the Unaudited Financial Statements as of January 31, 2024, were accepted.

SIXTH ORDER OF BUSINESS

Approval of February 6, 2024 Organizational Meeting Minutes

On MOTION by Mr. Onorato and seconded by Mr. Joshua Breakstone with all in favor, the February 6, 2024 Organizational Meeting Minutes, as presented, were approved.

SEVENTH ORDER OF BUSINESS**Staff Reports****A. District Counsel: Kutak Rock LLP**

Mr. Eckert stated the Bond Validation complaint was filed. When a hearing date is set, the Board and Staff will be informed via email.

B. District Engineer (Interim): England-Thims & Miller

Mr. Ma stated that several projects are nearly ready to be permitted, within the next 60 days, and asked if contractors should be prequalified.

The consensus was that prequalification is unnecessary at this time.

C. District Manager: Wrathell, Hunt and Associates, LLC**• UPCOMING MEETINGS**

- April 11, 2024 at 11:00 AM [Landowners' Meeting and Public Hearings to Adopt Fiscal Year 2024 Budget & Rules of Procedure]

○ QUORUM CHECK

The next meeting will be held on April 11, 2024.

EIGHTH ORDER OF BUSINESS**Board Members' Comments/Requests**

There were no Board Members' comments or requests.

NINTH ORDER OF BUSINESS**Public Comments**

No members of the public spoke.

TENTH ORDER OF BUSINESS**Adjournment**

On MOTION by Mr. Kramer and seconded by Mr. Joshua Breakstone, with all in favor, the meeting adjourned at 11:25 a.m.

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Secretary/Assistant Secretary

Chair/Vice Chair